



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 148, 149, and 150

[Docket No. USCG-2012-0061]

RIN 1625-AB92

Deepwater Ports

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes revisions to its regulations for the licensing, construction, design, equipment, and operation of deepwater ports, which are offshore fixed or floating structures, other than vessels, used as ports or terminals for the import or export of oil and natural gas. The proposed revisions would provide additional information, clarify existing regulations, provide additional regulatory flexibility, and add new requirements to ensure safety. The proposed rule would not affect the license to operate of any existing deepwater port, nor would it result in the licensing of any new deepwater port. This proposed rule furthers the Coast Guard's maritime safety and stewardship missions.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before [INSERT DATE 90 DAYS AFTER DATE

OF PUBLICATION IN THE FEDERAL REGISTER] or must reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2012-0061 using any one of the following methods:

- (1) Online: <http://www.regulations.gov>.
- (2) Fax: 202-493-2251.
- (3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.
- (4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Kevin Tone, Deepwater Ports Standards Division (CG-OES-4), Coast Guard; telephone 202-372-1441, email [Kevin.P.Tone@uscg.mil](mailto:Kevin.P.Tone@uscg.mil). If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

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## **I. Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

### **A. Submitting comments**

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0061), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, and follow the instructions on that Web site. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

**B. Viewing comments and documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, and follow the instructions on that Web site. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

**C. Privacy Act**

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the *Federal Register* (73 FR 3316).

**D. Public meeting**

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under ADDRESSES. In your request, explain why you believe a public meeting would be beneficial. If we decide to hold a public meeting, we will announce its time and place in a later notice in the *Federal Register*.

## **II. Abbreviations**

ABS	American Bureau of Shipping
APPS	Act to Prevent Pollution from Ships
BOEM	Bureau of Ocean Energy Management
BSEE	Bureau of Safety and Environmental Enforcement
CE	Certifying Entity
CFR	Code of Federal Regulations
COA	Certificate of Adequacy
COTP	Captain of the Port
DHS	Department of Homeland Security
DNV	Det Norske Veritas
DOI	Department of the Interior
DWPA	Deepwater Port Act of 1974
EIA	Energy Information Administration
EIS	Environmental Impact Statement
E.O.	Executive Order
FR	<i>Federal Register</i>
FWS	National Fish and Wildlife Service
HDD	Horizontal Directional Drilling
LNG	Liquefied Natural Gas
LOOP	Louisiana Offshore Oil Port
MARAD	Maritime Administration
MARPOL 73/78	International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention
MODU	Mobile Offshore Drilling Unit
MOU	Memorandum of Understanding
MSU	Marine Safety Unit
MTSA	Maritime Transportation Security Act of 2002
NAICS	North American Industry Classification System
NEPA	National Environmental Policy Act of 1969
NMFS	National Marine Fisheries Service
OCMI	Officer in Charge of Marine Inspection
OMB	Office of Management and Budget
OPA 90	Oil Pollution Act of 1990

PHMSA	Pipeline and Hazardous Materials Safety Administration
PLEM	Pipeline End Manifold
PMMP	Prevention, Monitoring and Mitigation Program
PRA	Paperwork Reduction Act of 1995
Pub. L.	Public Law
ROD	Record of Decision
SMS	Safety Management System
SOLAS	International Convention for the Safety of Life at Sea
SPM-NGTS	Single Point Mooring-Natural Gas Transfer System
SPM-OTS	Single Point Mooring-Oil Transfer System
STL buoy	Submerged turret loading buoy
§	Section symbol
U.S.C.	United States Code

### **III. Executive Summary**

The purpose of this rulemaking is to revise existing Coast Guard regulations for deepwater ports. A deepwater port is a fixed or floating manmade structure, or a group of structures, other than a vessel, located beyond State seaward boundaries and used or intended for use as a port or terminal for the transportation, storage, and further handling of oil or natural gas for transportation to or from any State.<sup>1</sup> The proposed revisions would expedite the deepwater port license application process by capitalizing on lessons learned from past license applications. They would also address recent changes in the natural gas industry by allowing the use of deepwater ports as export facilities.

The legal basis of this rulemaking is 33 U.S.C. 1504(a) and (b), which require the Secretary of Transportation to issue regulations to implement the Deepwater Port Act of 1974, as amended (DWPA).<sup>2</sup> Before 2003, the Coast Guard operated under the Department of Transportation, and the Secretary of Transportation's authority under § 1504 was delegated to the Coast Guard in 49 CFR 1.46. When the Coast Guard was

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<sup>1</sup> See 33 U.S.C. 1502(9).

<sup>2</sup> 33 U.S.C. 1501 *et seq.*

transferred to the Department of Homeland Security (DHS) in 2003, “the authorities and functions of the Secretary of Transportation relating” to the Coast Guard, including the Secretary of Transportation’s authority relating to deepwater ports, also were transferred to DHS.<sup>3</sup> The Secretary of Homeland Security has delegated the Secretary’s regulatory authority under 33 U.S.C. 1504 to the Coast Guard.<sup>4</sup> The Secretary of Transportation’s authority to license deepwater ports<sup>5</sup> is delegated<sup>6</sup> to the Maritime Administrator.

This NPRM proposes numerous small revisions to a complex regulatory scheme. Collectively, these revisions will provide applicants with additional information and clarity, additional regulatory flexibility, and new requirements to ensure safety. Above all, the revisions should help applicants assemble more complete applications, to help them meet the Coast Guard’s regulatory requirements within the strict time limitations mandated by the DWPA and without costly suspensions of the licensing process. The proposed rule would not affect the license to operate of any existing deepwater port, nor would it result in the licensing of any new deepwater port.

This NPRM would impose no new regulatory costs and should help future license applicants receive more efficient, faster processing of their applications. Some proposed revisions may give applicants more flexibility than they have under current regulations. Finally, some applicants may benefit from proposed revisions that would facilitate the licensing of export deepwater ports.

#### **IV. Background**

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<sup>3</sup> See 6 U.S.C. 468(b).

<sup>4</sup> See DHS Delegation No. 0170.1(II)(75).

<sup>5</sup> 33 U.S.C. 1503(b)

<sup>6</sup> 49 CFR 1.93(h).

Deepwater ports are oil or natural gas import or export facilities, *not* exploration, development, or production facilities like drilling rigs.<sup>7</sup> Deepwater ports are subject to the DWPA. When the DWPA was first enacted, it applied only to deepwater ports handling oil imports. Section 106 of the Maritime Transportation Security Act of 2002<sup>8</sup> (MTSA) amended the DWPA to apply to natural gas imports as well. Section 312 of the Coast Guard and Maritime Transportation Act of 2012<sup>9</sup> further amended the DWPA so that it now also authorizes deepwater ports for oil or natural gas exports. MARAD must license each deepwater port before it can be built and commissioned and begin operations, but MARAD consults the Coast Guard and other Federal agencies,<sup>10</sup> as well as affected State governments, before issuing licenses. License applications are jointly processed by the Coast Guard and MARAD, and we conduct the necessary analysis to determine whether a proposed deepwater port will comply with the DWPA and to ensure compliance with other applicable laws, in particular the National Environmental Policy Act of 1969 (NEPA). Also, the Coast Guard provides the regulatory framework governing the application and licensing process as well as the design, construction, equipment, and operation of deepwater ports. Our deepwater port regulations in 33 CFR subchapter NN (parts 148, 149, and 150) were first issued in 1975, and were extensively revised in 2004 and 2006 to reflect the 2002 extension of the DWPA to natural gas.

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<sup>7</sup> See 33 CFR 140.10 (excluding deepwater ports from the definition of an Outer Continental Shelf facility).

<sup>8</sup> Pub. L. 107-295, 116 Stat. 2064.

<sup>9</sup> Pub. L. 112-213, 126 Stat. 1540.

<sup>10</sup> The Department of the Interior (DOI) advises license applicants that: (a) In accordance with 43 U.S.C. 1334(a)(5), to the extent that a proposed deepwater port's design includes subsurface storage on submerged lands of the Outer Continental Shelf, that storage is subject to DOI's review and approval; (b) As a cooperating agency during a license application's processing, the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) participate in the review of proposed deepwater ports; and (c) under BSEE regulations (30 CFR part 250, subpart J), a right-of-way granted by BSEE and a right-of-way rental amount may be required.



Since our most recent substantive revision of subchapter NN,<sup>11</sup> the Coast Guard has received eight applications to site, construct, and operate natural gas deepwater ports. Four applications were subsequently withdrawn by the applicants. Of the remaining four, two deepwater ports have been constructed, one has been issued a license to construct, and one has initial approval through a favorable Record of Decision (ROD)<sup>12</sup> from MARAD. All four were for natural gas imports. In processing these four applications, the Coast Guard and other Federal agencies have identified additional, specific types of information that are necessary to ensure a timely review of, and decision on, deepwater port applications. During the application review process, and after the construction and operation of new deepwater ports, we gained additional insight into the technical and operational requirements that will help ensure operations are conducted efficiently and in a manner that furthers safety, security, and environmental protection. The DWPA, 33 U.S.C. 1504(g), provides a 240-day “clock” within which license applications must be processed (from publication of the notice of initial application to the final public hearing). To ensure compliance with the DWPA and NEPA, those wanting to build and operate a deepwater port must provide complex and highly technical information with their license applications. Under 33 U.S.C. 1504(c)(1), the Coast Guard has 21 days in which to determine whether an application appears to contain all the necessary information. If the application appears to be incomplete, the Coast Guard informs the applicant as to its deficiencies, and takes no further action until the deficiencies are corrected. If the application appears to be complete, the Coast Guard must publish a notice of the

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<sup>11</sup> 71 FR 57644; Sep. 29, 2006.

<sup>12</sup> A Record of Decision states what the agency’s decision is; identifies all alternatives considered by the agency, specifies the alternative or alternatives which were considered to be environmentally preferable; and states whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. *See* 40 CFR 1505.2.

application and a summary of the plans in the *Federal Register*. Long after this initial determination of completeness, however, we often find that we need additional information to complete a proper analysis of the proposed deepwater port's environmental impact, and the applicant is required by 33 U.S.C 1504(c)(2)(M) to provide that information. Our regulations<sup>13</sup> make it clear that the need to obtain important additional information "stops the clock," extending the 240-day deadline by the length of time needed to obtain the additional information.

## **V. Discussion of Proposed Rule**

This proposed rule draws on the lessons we have learned about efficiencies in the license application review process and in building and operating safe and efficient deepwater ports. In developing this proposed rule, we have consulted with MARAD and other Federal agencies that work with us on deepwater port issues, and we will continue this consultation as we develop a final rule.

This proposed rule would primarily clarify existing requirements or provide more information about how those requirements intersect with the requirements of other Federal agencies and State governments that have roles in the licensing and operation of deepwater ports. The intent of this proposed rule is to reduce the number of times the "clock is stopped" pursuant to our regulations, thereby reducing the time needed to reach decisions on applications. Although we propose a few new requirements, they are likely to impose no new regulatory costs because they track with industry's current behavior. We also propose several changes that should provide industry with additional regulatory flexibility. Our proposals would apply to any applications received after the effective

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<sup>13</sup> At 33 CFR 148.107(c)(3).

date of the final rule. The rule would not affect the license to operate any existing deepwater port, nor would they result in the licensing of any new deepwater port.

The proposed rule aligns with directives in several Executive Orders (E.O.s). Section 3(a)(1) of E.O. 12988<sup>14</sup> requires agencies to review proposed regulations to eliminate drafting errors and ambiguity, and our proposed rule will clarify ambiguities that have come to light since we last amended our current regulations. Because the proposed rule draws on lessons learned from applying our current regulations, it helps make those regulations more effective and less burdensome and is therefore in line with E.O. 13563.<sup>15</sup> In light of the recent surge in U.S. natural gas production, and now that the DWPA permits deepwater ports to export oil and natural gas, our proposed rule may also facilitate the development or conversion<sup>16</sup> of existing deepwater ports to export U.S. natural gas by clarifying the deepwater port application process and lessening the likelihood of time-consuming delays in that process. Therefore it may contribute to the job creation and economic benefits that are goals of E.O. 13605.<sup>17</sup>

The changes we propose for part 148 focus on providing deepwater port license applicants with clearer information about the information we require, so that applicants will be less likely to encounter “stopped clocks.” We propose reorganizing part 149, which addresses the complex process of designing, constructing, and equipping deepwater ports. Other changes in part 149 would clarify its requirements or adapt terminology to the reality that no two deepwater ports use identical design elements.

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<sup>14</sup> “Civil Justice Reform,” 61 FR 4729 (Feb. 5, 1996).

<sup>15</sup> “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), § 6(b).

<sup>16</sup> An application for the conversion of an existing import facility to one adapted for export would require the submission of a new application fee. The conversion application would need to address all the same issues addressed in an original application.

<sup>17</sup> “Supporting Safe and Responsible Development of Unconventional Domestic Natural Gas Resources,” 77 FR 23107 (Apr. 17, 2012).

Most of the procedural changes we propose would affect the deepwater port operations requirements in part 150. In addition to clarifying part 150's requirements and providing more information, we propose changes (in line with current industry practice) that would ensure that future deepwater ports continue to meet acceptable levels of safety.

Table 1 lists each section that we propose adding or amending, and briefly explains our rationale for the proposal. It omits the nonsubstantive redesignation of specific sections as part of the reorganization of part 149, which we discuss in the table, and the nonsubstantive insertion of "but not limited to" in lists, to emphasize their non-exclusive nature.

**Table 1 – Changes Proposed for 33 CFR Subchapter NN.**

§	Change	Nature of change	Discussion
PART 148			
3	Revise descriptions of each agency's authority	Informational	Based on latest statutory or interagency allocation of functions. We would describe, not change, that allocation.
5	"Accommodation module"	Add definition	Term figures in proposed changes.
	"Construction"	Revise definition	Clarify that Coast Guard oversight applies throughout the deepwater port lifecycle by emphasizing that construction applies to any activity incidental to building, repairing, or expanding a deepwater port.
	"Deepwater port"	Revise definition	Align with current statutory language, which allows deepwater ports to export as well as import oil or natural gas.
	"Deepwater port security plan"	Add definition	Term figures in proposed changes.
	"Engineering geological survey"	Revise definition	Clarify that the necessary analysis considers all geological factors and is not limited to hydrographics. Coast Guard's experience is that the scope of this analysis has been confusing in the past.
	"Flexible riser	Add definition	Term figures in proposed changes.

	and umbilical”		
	“Lease block”	Revise definition	Simplify statutory citations.
	“Major conversion”	Transfer definition	Transfer from part 149 without substantive change.
	“Marine Safety Unit (MSU) Commander”	Add definition	Updated Coast Guard internal organization.
	“Marine site”	Revise language	Clarify meaning of “including.”
	“Maritime Administration”	Revise definition	Updated MARAD information.
	“Mile”	Add definition	Clarify that subchapter NN references to miles mean nautical miles.
	“Operator”	Revise definition	Clarify that the operator may be the licensee’s designee and not the licensee itself.
	“Person in charge”	Revise definition	Clarify definition.
	“PIC”	Add definition	Add separate definition to help distinguish “person in charge” from “PIC.”
	“Pipeline”	Add definition	Define to distinguish portion of interest to Coast Guard from equipment regulated by Pipeline and Hazardous Materials Safety Administration.
	“Pipeline end manifold”	Add definition	Define to distinguish portion of interest to Coast Guard from equipment regulated by Pipeline and Hazardous Materials Safety Administration (PHMSA).
	“Prevention, monitoring, and mitigation program”	Add definition	Term figures in proposed changes.
	“Safety zone”	Revise definition	Clarify that a deepwater port is the facility at issue.
	“Service space”	Transfer definition	Transfer from part 149 without substantive change.
	“Single point mooring oil transfer system”	Revise definition	Clarify and distinguish terms that are sometimes confused.
	“Single point mooring natural gas transfer	Revise definition	Clarify and distinguish terms that are sometimes confused.

	system”		
	“Sleeping space”	Transfer definition	Transfer from part 149 without substantive change.
	“Submerged turret loading buoy”	Add definition	Term figures in proposed changes.
	“Vessel”	Revise definition	Conform to definition used in 1 U.S.C. 3.
8	Certifying entities (CEs)	Provide additional regulatory flexibility	Operators are currently allowed to use CEs to assist with post-licensing technical matters. We would also allow license applicants to use CEs during the application process, to help identify information gaps and resolve technical questions.
105(g)(1)(i)	Describe MARAD as acting in consultation with the Coast Guard, instead of the Coast Guard acting in concurrence with MARAD	Informational	We would more accurately reflect MARAD’s lead role for matters regarding the financial responsibility of a deepwater port application.
105(g)(2)(iii)	Change “operator” to “licensee,” as the party responsible for deepwater port removal costs	Clarification	Financial liability rests with a deepwater port’s licensee, not with the operator, who may be only the licensee’s designee.
105(i)(1)	Change “is” to “will be”	Style	Style change.
105(j)	Provide additional information about coastal zone management	Informational	We would give license applicants more detailed information, including a reference to applicable National Oceanic and Atmospheric Administration regulations, to help applicants more quickly establish compliance with 33 U.S.C. 1503(c)(9)’s requirement for an approved coastal zone management program under the Coastal Zone Management Act of

			1972.
105(k)	Provide an alternative to the use of a professional surveyor	Provide additional regulatory flexibility	Delay in securing the services of a registered professional surveyor has “stopped the clock” in at least one instance. We would allow the use of others with equivalent professional competency.
105(m)(1)(i)	Revise provisions relating to fixed and floating structures	Clarification	We would delete language concerning connected actions, because it is redundant with the requirement in 33 CFR 148.105(l) to provide data for onshore storage areas, pipelines, and refineries.
105(m)(1)(iii) )	Revise provisions relating to anchorages and mooring areas	Clarification	We would clarify that anchorages and mooring areas can be used during a deepwater port’s construction as well as after it becomes operational.
105(m)(2)	Revise description of required reconnaissance hydrographic survey	Clarification	We would delete some survey specifications because MARAD describes the specific information it requires in the license conditions it sets for individual deepwater ports.
	Allow exceptions to 5-year limit on age of data	Provide additional regulatory flexibility	The proposed change would allow the use of older data, with Coast Guard approval, which would be granted so long as newer data is provided for any specific locations having a high degree of hydrographic variability.
105(m)(3)	Add language for meteorological and oceanographic (“MetOcean”) data	Revision	MetOcean data is essential for analyzing a proposed deepwater port’s environmental impact. If it is not included with the license application, we currently require the applicant to provide it as “additional information” under 33 CFR 148.107. We would add the need to include MetOcean data in the initial application, to better inform applicants and reduce the likelihood of “clock stoppage.”
105(m)(4)	Add language for vessel traffic	Revision	Vessel traffic data is essential for analyzing a proposed deepwater

	data		port's environmental impact and for the Coast Guard's analysis of risk mitigation. If it is not included with the license application, we currently require the applicant to provide it as "additional information" under 33 CFR 148.107. We would add the need to include vessel traffic data in the initial application, to better inform applicants and reduce the likelihood of "clock stoppage."
105(n)	Add language for engineering geological survey (presently soil survey) data	Revision	We would clarify that full geological information, not just soil data, is essential for analyzing a proposed deepwater port's environmental impact. If it is not included with the license application, we currently require the applicant to provide it as "additional information" under 33 CFR 148.107. We would add the need to include geological survey data in the initial application, to better inform applicants and reduce the likelihood of "clock stoppage."
	Allow exceptions to 5-year limit on age of data	Provide additional regulatory flexibility	The proposed change would allow the use of older data, with Coast Guard approval.
	Provide an alternative to the use of a professional engineer	Provide additional regulatory flexibility	Delay in securing the services of a professional engineer has "stopped the clock" in at least one instance. We would allow the use of others with equivalent professional competency.
105(s)(6)(iv)	Add "regasification" to existing language	Revision	We would clarify that information about the methods the applicant expects to use in regasifying natural gas prior to transmission is essential for analyzing a proposed deepwater port's environmental impact. If it is not included with the license application, we currently require the applicant to provide it as "additional



			information” under 33 CFR 148.107. We would add the need to include regasification data in the initial application, to better inform applicants and reduce the likelihood of “clock stoppage.”
105(t)	Add recommendation for PHMSA consultation	Informational	We would provide license applicants with additional information, and we would encourage them to consult with PHMSA, to help facilitate an applicant’s ability to comply with PHMSA requirements for pipeline safety.
105(y)	Add language for risk and consequence assessment	Informational	A license applicant’s risk and consequence assessment is essential for analyzing a proposed deepwater port’s environmental impact and is currently subject to Coast Guard validation. We would provide additional information about methods that the Coast Guard may use to conduct that validation, including the conduct of an independent assessment by a third party selected by the Coast Guard. We would also restate the Coast Guard’s existing authority under 33 CFR 148.107 to require the applicant to provide “additional information” when necessary.
105(z)	Add language for NEPA alternatives	Clarification	This paragraph currently requires license applicants to provide an environmental analysis sufficient to meet the requirements of NEPA. Under NEPA, environmental analysis must include consideration of a range of reasonable alternatives to key aspects of the action being analyzed. If alternatives are not discussed in the initial license application, we currently require the applicant to provide it as “additional information” under 33 CFR 148.107. We would clarify

			the need to discuss alternatives in the initial application, to better inform applicants and reduce the likelihood of “clock stoppage.”
105(ff)	Add language for International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention (MARPOL 73/78)	Clarification	A license to operate a deepwater port is granted only if it is determined that the applicant “can and will comply with applicable laws, regulations, and license conditions.” 33 U.S.C. 1503(c)(2). MARPOL, and MARPOL-implementing regulations in 33 CFR part 158, are applicable to deepwater ports, and a Certificate of Adequacy (COA) is required to demonstrate compliance with part 158. If the COA is not requested in the initial license application, we currently require the applicant to provide it as “additional information” under 33 CFR 148.107. We would clarify the need to request the Certificate in the initial application, to better inform applicants and reduce the likelihood of “clock stoppage.”
107(b)	Add references to MARAD	Clarification	We would clarify that the Coast Guard may request additional information on behalf of MARAD as well as on the Coast Guard’s own behalf.

107(c)-(e)	Revise (c) and add (d) and (e), regarding “clock stoppage”	Clarification	Paragraph (c) of this section currently allows the Coast Guard to suspend the processing of a license application indefinitely (“stop the clock”) in order to obtain additional information. We would provide additional information to clarify and help applicants better understand how “stopping the clock” works. This proposed change should be read along with the proposed change to 33 CFR 148.276 and 148.283 relating to suspension and withdrawal of an application.
125(c)	Add “additional environmental analysis” to existing language	Clarification	Under 33 U.S.C. 1504(h)(1), license applicants must “reimburse the United States and the appropriate adjacent coastal State for any additional costs incurred in processing an application.” We would add, as a clarification, the need for additional environmental analysis as an example of when additional costs will be incurred. A past applicant’s change in plans for the proposed deepwater port raised the potential need for additional environmental analysis.
209(a)	Remove reference to interagency memorandum of understanding (MOU)	Informational	We would delete a reference to an expired MOU that can no longer be consulted for the current list of all Federal agencies involved with deepwater ports.

211(a)	Revise language describing the need for changes in applications	Clarification	This paragraph currently requires a license applicant to promptly notify the Coast Guard of any changes to its application. We would clarify that we consider any circumstance that makes statements in the application no longer accurate to be a “change” requiring prompt notification.
211(b)	Revise language describing how changes are made in applications	Clarification	As currently worded, this paragraph may imply that any substantial change requires a license applicant to completely revise its application. We would clarify that our existing practice generally is to allow the applicant simply to amend its application to make the change.
	Add language concerning NEPA scoping and additional public comment	Informational	We would inform license applicants that under NEPA and other existing laws, a substantial change in an application could trigger the need for additional NEPA scoping or additional public comment on the application.
214	Add provision for resubmission of a withdrawn or denied application	Informational	We would provide additional information about the conditions under which a license applicant can address concerns raised by its initial application and resubmit the application, with the Coast Guard waiving certain Subpart B application requirements for the re-application.
215	Redesignate (d) as (c)(5) and add “proposed deepwater” to existing language	Clarification	We would clarify that (d) is a continuation of (c) and relates to a proposed deepwater port.
217(b)-(d)	Revise description of respective Coast Guard and MARAD roles in	Informational	We would state that MARAD consults with the Coast Guard, but makes the actual Adjacent Coastal State designation.

	the designation of an Adjacent Coastal State		
222(b)	Revise description of respective Coast Guard and MARAD roles in giving notice of Adjacent Coastal State hearings	Informational	We would clarify that MARAD, not the Coast Guard, has the existing responsibility for publishing notices of public hearings or meetings in Adjacent Coastal States.
228	Revise description of respective Coast Guard and MARAD roles with respect to formal evidentiary hearings	Informational	We would clarify that MARAD, not the Coast Guard, has the existing responsibility for any formal evidentiary hearings involving deepwater ports relating to specific and material factual issues related to the licensing of a deepwater port. Existing Coast Guard regulations, 33 CFR 148.230-148.256, provide a regulatory framework for such hearings; however, because MARAD, not the Coast Guard, is the licensing authority, we propose deleting these regulations.
276	Revise section describing the DWPA timeline for action on a license application	Informational	The revision would provide more information about the DWPA timeline for processing license applications, and about suspensions of the timeline. We informally provide this additional information today. (The revisions do not alter the statutory timeline.) This proposed change should be read along with the proposed changes to 33 CFR 148.107 and 148.283 relating to suspension and withdrawal of an application.
277(d)	Provide additional information about the time period when the Governor of an Adjacent Coastal	Informational	We would add more information about the existing timeline for the Governor of an Adjacent Coastal State to approve or disapprove a proposed deepwater port application.

	State may transmit his or her approval or disapproval of a proposed deepwater port application		
283	Substitute provisions for treating an application as withdrawn for provisions concerning an application's suspension	Procedural change	33 CFR 148.107(c) and this section currently both provide for indefinitely suspending the processing of a license application if it is missing essential information. We would make it clear that, if there is no reasonable progress in securing the missing information, indefinite suspension may lead to the application being treated as withdrawn. This proposed change should be read along with the proposed changes to 33 CFR 148.107 and 148.276 relating to suspension.
405(c)(2)	Refer to Bureau of Offshore Energy Management (BOEM) guidance	Informational	This paragraph currently requires a license applicant to give notice of certain acoustic profiling activities, which must take place "within specified limits." We would inform applicants that those limits currently are provided by BOEM guidance, thereby making it easier for applicants to determine what limits are specified.
Subpart G	Redesignate 33 CFR 148.600 and 148.605 as subpart G of part 148	Nonsubstantive reorganization	We would give added prominence to these two sections, which have been of interest to several license applicants.
600	Provide more information about deepwater port financial liability limits under the Oil Pollution Act of 1990 (OPA 90)	Informational	This section currently states that deepwater port financial liability limits are set in accordance with OPA 90 (33 U.S.C. 2704(d)(4)). Several license applicants have requested more information, and our proposed change would provide details on the current process for setting limits.

605	Provide more information about deepwater port financial liability limits under OPA 90	Informational	This section currently refers to the provisions of OPA 90 (33 U.S.C. 2704(d)(4)) for adjusting a deepwater port's financial liability limit. We would respond to several requests from license applicants for more details on the current process for adjusting limits. That process, with the relevant risk and economic analysis criteria, was described in the NPRM that proposed lowering the liability limit for the Louisiana Offshore Oil Port (60 FR 7652 at 7653, Feb. 8, 1995; final rule 60 FR 39849, Aug. 4, 1995).
Subpart H	Redesignate current subpart G as new subpart H of part 148	Nonsubstantive reorganization	This proposed change is necessitated by our proposed designation of 33 CFR 148.600 and 148.605 as new subpart G.
707(b)	Revise	Clarification	We would more closely align the wording of this section with terminology familiar to NEPA practitioners. We would also clarify that license applicants are currently required to consider a reasonable range of alternatives to their proposed deepwater port plans.
707(b)(1)	Provide more information about the scope of environmental evaluation	Informational	We would provide license applicants with more complete information about the scope of environmental evaluation and align wording with terminology familiar to NEPA practitioners.
715 intro	Add "reasonable range of alternatives" language	Clarification	We would clarify that license applicants are required to consider a reasonable range of alternatives to their proposed deepwater port plans.
715(a)	Provide more information about the scope of environmental evaluation	Informational	We would provide license applicants with more complete information about the scope of environmental evaluation.

725 intro	Add “reasonable range of alternatives” language	Clarification	We would clarify that license applicants are required to consider a reasonable range of alternatives to their proposed deepwater port plans.
730 intro	Add “reasonable range of alternatives” language	Clarification	We would clarify that license applicants are required to consider a reasonable range of alternatives to their proposed deepwater port plans.
730(a)	Revise	Informational	This paragraph currently refers to appropriate Adjacent Coastal State agencies. We would substitute a specific cross reference to 33 CFR 148.105(j), where we propose adding detailed information about Adjacent Coastal States.
735 intro	Add “reasonable range of alternatives” language	Clarification	We would clarify that license applicants are required to consider a reasonable range of alternatives to their proposed deepwater port plans.
737	Replace list with Web site reference	Informational	This section currently contains a lengthy and non-exclusive list of environmental statutes and E.O.s of potential interest to license applicants. We would replace that list with a reference to a Coast Guard Web site where more current information is maintained and available to the public.
<b>PART 149</b>			
Part 149 organization	Reorganize	Nonsubstantive reorganization	We would reorganize this part, redesignating and renaming some sections and providing a more sequential structure for existing deepwater port design, construction, and equipment requirements. Subpart A would contain general information, subpart B would contain general requirements for design,



			construction, operations, and equipment requirements, and the remaining subparts C through F would contain specific equipment requirements.
5	Replace definitions with cross reference to 33 CFR 148.5	Nonsubstantive reorganization	This section currently contains 4 definitions. We would move all subchapter NN definitions to 33 CFR 148.5.
15	Remove	Nonsubstantive reorganization	This section currently describes the process for submitting deepwater port design or construction alterations. As part of the nonsubstantive reorganization of part 149, we would delete this section and transfer its substance to 33 CFR 149.54.
20(a) (current 610(a))	Add “or submerged turret loading (STL) buoy” to existing language	Technology update	We would insert a reference to STL buoys, which are significant deepwater port components not in existence when we last revised our regulations, and the details of the construction of which we currently require deepwater port operators to provide.
51 (current 615)	Provide for use of foreign engineers	Provide additional regulatory flexibility	We would amend paragraph (b) to allow the use of foreign engineers who may not be registered professional engineers, if they possess equivalent qualifications.
52 (current 625)	Revise (b)	Provide additional regulatory flexibility	We would insert a reference to CEs, reflecting our proposal (see table entry for 33 CFR 148.8) to allow greater use of CEs.

	Add (d)	Clarification	We would add language from current 33 CFR 149.650, to clarify the existing procedure by which a license applicant works with the Coast Guard to determine which deepwater port components require classification society certification. That determination will likely be different for each deepwater port, given the potential variability between deepwater port designs. We would also add language to encourage (but not require) early coordination between the applicant and the Coast Guard, because of the potential value of early coordination for expediting the design process.
54	Add	Nonsubstantive reorganization	We would move the text from existing § 149.15 to the revised subpart B to consolidate requirements for design into one subpart.
57	Add	Informational	We would add this section for the benefit of license applicants, to provide them with more information about our existing process for reviewing and approving a deepwater port's design, construction, and commissioning.
58	Add	Clarification	We would add this section to clarify that our existing practice is to allow a license applicant to use certifying entities during the design and construction of a deepwater port as well as after the

			deepwater port is licensed, and to describe the CE's role in various phases of the deepwater port's lifespan.
63(a) (current 660(a))	Substitute "manned deepwater port" for "pumping platform complex"	Clarification	The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all manned deepwater ports are pumping platform complexes.
64(b) (current 140(b))	Add "facilities, vessels approaching the safety zone" to existing language	Clarification	Provides clarification of who the vessel would be in communication with to ensure communications are occurring between the vessel and the shoreside facility for purposes of situational awareness.
65 intro, (b) (current 665 intro, (b))	Substitute "manned deepwater port" for "pumping platform complex"	Clarification	The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all manned deepwater ports are pumping platform complexes.
67(a) (current 675(a))	Substitute "Each" for "For a," remove "each pumping platform complex," and substitute "deepwater port" for "complex"	Clarification	The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because the one existing manned deepwater port is a pumping platform complex.
68(a) (current 680(a))	Add "manned" before "deepwater" in existing language	Clarification	We would clarify that this requirement applies only to manned deepwater ports.
70 (current 690)	Substitute "specified" for "outlined"	Clarification	The requirements are specified and are not optional, as "outlined" would imply.

77(a) (current 697(a))	Substitute “operator’s” for “owner’s”	Clarification	We would clarify that because the operator is in charge of day-to-day operations, the operator is responsible for maintaining all documentation.
115 (current 110)	Substitute “remotely” for “from the pumping platform complex”	Clarification	This section currently requires pipeline end manifolds to have shutoff valves that can be operated both manually and remotely from a pumping platform complex. Since not every deepwater port has a pumping platform complex, we would replace the reference to such a complex with the word “remotely.”
130(a) (current 125(a))	Substitute “marine transfer area of a deepwater port” for “pumping platform complex”	Clarification	Only the single existing manned deepwater port has a pumping platform complex. The proposed change substitutes a generic term common to manned or unmanned deepwater ports.
135 (current 130)	In (b) introductory language add “described in paragraph (a) of this section”	Clarification	Reference to paragraph (a) of same section.
	In (b)(1) and (b)(2) substitute “marine transfer area of a deepwater port” for “pumping platform complex”	Clarification	The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all marine transfer areas are pumping platform complexes. Revised terminology provides greater clarity.
	In (b)(2) add “described”	Clarification	Clarification and reference to paragraph (b)(3) of the section
206	Add	Harmonization	We would adapt existing lifesaving equipment requirements for mobile offshore drilling units (MODUs).
302 (current	Revise	Clarification	We would transfer qualifying language from the end to the

402)			beginning of the section.
303 (current 403)	Revise heading	Clarification	We would revise the heading to clarify who needs the information provided by this section.
304 (current 404)	Revise heading	Clarification	We would revise the heading to clarify who needs the information provided by this section.
Current 306—315	Remove	Nonsubstantive reorganization	These sections currently describe survival craft and rescue boat requirements. As part of the nonsubstantive reorganization of part 149, we would delete these sections and transfer their substance to 33 CFR part 149, subpart D.
315(a) (current 415(a))	Substitute “manned deepwater port” for “pumping platform complex”	Clarification	The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all manned deepwater ports are pumping platform complexes.
410(a) (current 510(a))	Substitute “Coast Guard District Commander in the area where the deepwater port will be built” for “Commandant (CG-5P)”	Clarification	We would clarify that the District Commander approves applications to establish a private aid to navigation.
480(a) (current 580(a))	Remove “of a pumping platform complex”	Clarification	The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo.
485(a) (current 585(a))	Substitute “deepwater port” for “pumping platform complex”	Clarification	The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all manned deepwater ports are pumping platform complexes.
650	Remove	Clarification; Nonsubstantive reorganization	We would transfer the substance of this provision to § 149.52(d), and revise it to apply to all deepwater ports regardless of design or cargo.

PART 150			
10	In (b), remove reference to part 148 approval of manuals	Correction	We would remove this incorrect reference. Approval of manuals is addressed in part 150.
	Revise (c) and redesignate (d) and (e)	Clarification	We would remove existing (c) because the process is described in detail in proposed § 150.25. Existing (d) and (e) would be redesignated as (c) and (d), respectively.
	Add new (e)	Clarification	The proposed change would make explicit in our regulations that the Coast Guard's current practice is to review the operations manual every five years, in conjunction with our review of the environmental impact statement (EIS) (the Council on Environmental Quality recommends that, as a rule of thumb, the EIS be carefully reexamined no later than once every five years – <i>see</i> <a href="https://ceq.doe.gov/nepa/regs/40/30-40.HTM#32">https://ceq.doe.gov/nepa/regs/40/30-40.HTM#32</a> ).
15	In (i)(4)(vii), substitute “zones and areas described under subpart J of this part” for “a safety zone, area to be avoided, and anchorage area”	Clarification	We would clarify that the procedures described must account for any protective zone or area that could apply, regardless of a deepwater port's design or cargo.
	Add new (o)	Informational	Deepwater ports are ports subject to U.S. jurisdiction and used by oceangoing tankers greater than 400 gross tons, and as such their operators must comply with 33 CFR 158.135, which requires ports to hold certificates of adequacy (or waivers), evidencing their capability to receive regulated substances. For informational

			purposes, we would restate that requirement here.
	Revise (y) (current (x))	Informational	Under 33 CFR 106.410 and 106.415, security plans must be periodically audited, and reviewed every 5 years by the Coast Guard. For informational purposes, we would restate those requirements here.
	Revise (bb) (current (aa))	Clarification	This change would reflect MARAD's current policy, requiring each deepwater port to maintain a prevention, monitoring, and mitigation program (PMMP) as a license condition.
	Add (cc)	Clarification	MARAD currently requires, as a license condition, each deepwater port to comply with 49 CFR 192.605 and with other applicable PHMSA regulations in 49 CFR parts 190-199. We would make that requirement explicit in our regulations.
25	Revise heading	Clarification	We would amend for better clarity.
	Add (c)(1)	Clarification	We would clarify the existing local authority to approve or reject revisions to the operations manual.
	Revise (c)(2)(current (d))	Clarification	We would clarify the existing local authority to approve or reject revisions to the operations manual.
	Revise (e)(current (f))	Clarification	We would clarify the existing local authority to approve or reject revisions to the operations manual.
	Add new (f)	Clarification	We would make explicit the existing authority of other Federal agencies to propose operations manual amendments to the Coast Guard.
30	Revise	Clarification	We would update Coast Guard organizational terminology and clarify what our current process is for coordinating with other Federal agencies.
35	Revise	Informational	Updated Coast Guard internal organization.
40	Add paragraph	Nonsubstantive	We would consolidate current 33

	(b)	reorganization	CFR 150.40 and 150.45 into a single section dealing with deviations from the operations manual. In new (b), we would update references to Coast Guard internal organization.
45	Remove	Nonsubstantive reorganization	We would transfer the substance of this section to § 150.40. Text from existing § 150.45 now in proposed § 150.40(b).
50	Revise heading	Clarification	The proposed change would reduce the risk of confusing a deepwater port with an Outer Continental Shelf facility.
100	Add (b)	Clarification	We would make explicit the current Coast Guard practice of sometimes allowing, for reasons of government economy, representatives from other Federal agencies to accompany Coast Guard inspectors on inspection visits to deepwater ports.
105	Revise	Clarification	We would clarify the existing procedure for proposing a self-inspection program; to make it clear that it is the operator, not the owner, who performs the duties required by this section; and to make explicit the existing Coast Guard regulatory responsibility to validate the contents and results of deepwater port self-inspections.
107	Add	Procedural change	We would add this section to require deepwater port operators to notify the Coast Guard when a Federal or State agency schedules an inspection and keep inspection records, both of which operators currently do without their being formally required. We would also make it explicit that, as a matter of government economy, Coast Guard personnel sometimes accompany Federal or State inspectors on inspection visits.
110	Add “or of	Procedural	We would require deepwater port



	changes in class status.” to existing language	change	operators to notify us of changes in the status of classification society-approved components, which may present safety issues that warrant adjustment to the deepwater port’s operations. Operators currently provide this notification without being formally required to do so.
225	Add second sentence	Clarification	This section currently requires appropriate training for deepwater port personnel. We would clarify our expectation, which is in line with current practice at the one existing manned deepwater port, that all personnel will receive basic safety training.
380	Substitute “ships routing measures” for the example "(e.g., no anchoring area)" from Table 150.380(a)	Clarification	We would provide greater technical accuracy and use familiar International Maritime Organization terminology.
	Remove “(for example an SPM)” from Table 150.380(a)	Clarification	Because the surface components used by deepwater ports vary so widely, we would remove an example that may confuse some license applicants.
	Revise (b)	Clarification	We would update references to Coast Guard internal organization.
435(b)	Add “unless” clause	Provide additional regulatory flexibility	We would allow operations to continue during an electrical storm so long as they are conducted in compliance with appropriate safety provisions contained in the operations manual.
715	Add reference to 33 CFR 66.01-11	Clarification	Deepwater port lights are private aids to navigation and therefore subject to 33 CFR 66.01-11. We would make that explicit in deepwater port regulations.
720	Add reference to 33 CFR 67.10	Clarification	Would clarify that other existing Coast Guard regulations for sound signals still apply.
812	Add “and the	Clarification	Coast Guard marine casualty

	environment”		regulations that currently apply to vessels and facilities, including deepwater ports, protect environmental safety as well as the safety of life and property; <i>see, e.g.</i> , 33 CFR 140.1, 46 CFR 4.03-1. We would make explicit the need to consider environmental damage in connection with this section.
830	Revise	Procedural change	This section currently requires the one existing oil deepwater port to report oil pollution incidents in accordance with 33 CFR part 135, for which the underlying authority may have been repealed. ( <i>See</i> Coast Guard notice of inquiry, 76 FR 67385; Nov. 1, 2011; a follow-on rulemaking has begun under RIN 1625-AA03 and docket number USCG-2004-17697.) We would require reports to be made in accordance with 33 CFR part 153 subpart B, which has reporting requirements similar to those in part 135. We would also restate the existing 33 CFR 135.307 requirements for the contents of pollution reports.
915(a)	Add “or the environment”	Clarification	Coast Guard marine casualty regulations that currently apply to vessels and facilities, including deepwater ports, protect environmental safety as well as the safety of life and property; <i>see, e.g.</i> , 33 CFR 140.1, 46 CFR 4.03-1. We would make explicit the need to consider environmental damage in connection with this section.

## V. Regulatory Analyses

The Coast Guard developed this proposed rule after considering the statutes and

E.O.s related to rulemaking that are discussed in this part.

### **A. Regulatory Planning and Review**

Executive Orders 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This notice of proposed rulemaking has been designated a "significant regulatory action" although not economically significant, under section 3(f) of E.O. 12866. Accordingly, the notice of proposed rulemaking has been reviewed by the Office of Management and Budget (OMB).

The Coast Guard proposes revisions to its regulations for the licensing, construction, design, equipment, and operation of deepwater ports, which are offshore fixed or floating structures, other than vessels, used as ports or terminals for the import or export of oil and natural gas. The proposed revisions would provide additional information, clarify existing regulations, provide additional regulatory flexibility, and add new requirements to ensure safety.

One objective of the proposed rule is to ensure that adequate information is submitted with a deepwater port application. Through the experience of processing past applications, Coast Guard and other Federal agencies have identified additional, specific types of information that are necessary to ensure a timely review of, and decision on,

deepwater port applications. For past applications, this additional information has been requested during the review process, causing delays in the review and approval of applications. Specifying that the additional information is required at the beginning of the process will not increase the application process burden, but is expected to result in more efficient and timely reviews of any future applications.

Further, the proposed rule codifies various technical and operational requirements. During the application review process, and after the actual construction and operation of new deepwater ports, the Coast Guard gained additional insight into the technical and operational requirements that will help ensure operations are conducted efficiently and in a manner that furthers safety, security, and environmental protection. These technical and operational requirements are currently standard industry practice or are existing requirements (e.g., from another agency, etc.). The proposed rule consolidates these requirements to facilitate understanding and compliance of deepwater port owners and operators.

Table 2 below provides a summary of the final rule's costs and benefits.

**Table 2: Summary of the Proposed Rule's Impacts.**

Category	Summary
Applicability	Deepwater ports in waters beyond the territorial limits of the United States
Affected Population	Future deepwater port applicants 3 existing deepwater ports
Cost Impacts	No additional costs identified
Benefits	More efficient and timely reviews of deepwater port applications Consolidation of technical and operating requirements for existing deepwater ports Potential cost savings from the following provisions: 1. § 148.8 Nominate CE 2. § 148.105 Equivalent means of certifying accuracy

	of maps. 3. § 148.707 4. § 149.51 Allows foreign national engineers. 5. § 149.52 Allows for adoption of classification society standards. 6. § 150.435 Authorizes continuation of cargo transfer operations during electrical storm. 7. § 150.15 Limits scope of audits to modifications.
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### **Affected Population**

One oil deepwater port began operation before 2006. Since 2006, the Coast Guard has processed, or is processing, eight deepwater port applications to site, construct, and operate deepwater ports. After review of those applications, two LNG deepwater ports have been constructed, one has been issued a license to construct, and one has initial approval through a favorable ROD from MARAD. The applicants for the other four applications have withdrawn their applications. The population of currently operating deepwater ports is three: the one pre-2006 oil port and two LNG ports.

The potential number of additional deepwater port applications over the next 10 years is dependent on changing market conditions and economic forces. The existing deepwater ports were built when the forecasts for imports of LNG to the United States, such as those made by the Energy Information Administration (EIA), were predicting high levels of LNG imports. With recent changes in the natural gas and oil markets, EIA now projects continued decline in LNG imports and increasing volumes of LNG exports.<sup>18</sup> The financial and technical feasibility of using deepwater ports for LNG exports has not yet been demonstrated, making a projection of the number of future deepwater port applications difficult. The Coast Guard, for the purpose of this

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<sup>18</sup> [http://www.eia.gov/forecasts/aeo/pdf/0383\(2014\).pdf](http://www.eia.gov/forecasts/aeo/pdf/0383(2014).pdf)

rulemaking, estimates that it will receive at least one future deepwater port application in the next 10 years, based on the one entity that has expressed interest in submitting a new application. The Coast Guard is proposing changes to enhance the efficiency and timeliness of any future applications.

## **Costs**

Table 3 details numerous proposed changes in the regulation with an assessment of the cost impacts of the change. These changes fall into the following categories:

- May result in possible time or cost savings as they allow for greater flexibility in complying with existing requirements.
- Clarify information to be submitted with the deepwater port application. These information requirements do not result in additional costs to industry as this information has been required under existing 33 CFR 148.107 in the past during application processing and review. Based on experience with each of the previous applicant reviews, the Coast Guard has consistently requested this information at some point in the processing of the application. The proposed regulatory changes clarify that the information is required up front to allow for the more timely review of the application, thus saving the applicant the time and expense of additional submissions.
- Implementation may be optional.
- Clarify the Coast Guard's existing need for certain additional information that it specifies during the license process and which the license applicant provides; the intended impact of the clarification is to notify the applicant that, in the interest of

expeditious processing of the application, this information should be provided up front. As the information is already being provided, there is no new cost impact.

- May be administrative and would not result in costs. Many of these changes clarify the relationship between various Federal agencies with responsibility for deepwater ports application, licensing, and review. These types of changes do not impose any behavioral changes by applicants of deepwater ports. These changes are labeled “Administrative,” described as clarifications, and will have no cost impact. Other "Administrative" proposed changes reword definitions or delete outdated references.

Overall, Coast Guard has not identified additional costs associated with complying with the proposed rule, and sees potential for some minor cost savings. Table 3 provides a detailed list of the changes proposed by the Coast Guard. The changes with potential cost savings include the following:

- Proposed § 148.8 allows an applicant to nominate a CE during the application processing phase. Currently, an applicant nominates a CE later in the application process. By allowing the nomination earlier, we believe that the applicants will have potential cost savings by identifying potential problems or challenges earlier in the process rather than later, when more work has been done on the application.
- Proposed § 148.105 allows for equivalent means of certifying the accuracy of maps. Applicants have experienced delays when certified geologists were not available to certify the accuracy of maps. The Coast Guard had no alternative but to stop the clock, often delaying application processing by several months. The

intent of this proposed revision is to permit the use of specialists who do not possess a professional certification, but are able to provide proof of equivalent technical expertise and experience, to certify work studies and reports required to satisfactorily process a deepwater port application. Allowing certifications by technical personnel possessing alternate credentialing will help to eliminate extensive delays in projects, waiting for expertise that is limited and in high demand. Also, proposed § 148.105 allows for the use of data older than 5 years under certain conditions. Use of older data could result in potential cost savings due to the avoidance of gathering new data.

- Proposed § 148.214 allows for resubmission of a modified application without incurring a fee. Under the existing process, an application can be re-submitted after modification, but the applicant must pay the filing fee.
- Proposed § 149.51 allows foreign-national engineers to submit design and construction plans on behalf of the licensee. The potential cost savings come from the flexibility of allowing the applicant to contract services from a larger pool of engineers. The applicant may have existing relationships with foreign engineers as the construction of LNG ports is multinational. Thus, the expertise of the foreign engineer may allow for more rapid review, greater institutional knowledge, and prior professional relationships which could result in potential cost savings.
- Proposed § 149.52 allows for adoption of classification society standards. Many maritime companies rely on classification standards to satisfy insurance, safety management system (SMS), and other requirements. The Coast Guard's adoption



of classification society standards eliminates the potential for duplicate effort. The Coast Guard recognizes that work already completed by a classification society can be used in the application process. An example is the APL submerged turret loading buoy system to import natural gas. The first natural gas deepwater port was Gulf Gateway, which used the APL submerged turret loading buoy system. There were no existing classification standards that addressed these types of ports or their components. Classification societies (American Bureau of Shipping (ABS) and Det Norske Veritas (DNV)) had to develop standards as the post-licensing review and approval process was taking place. Additional review on the part of the Coast Guard to grant equivalency approvals for some major port components and systems (emergency alarms, shutoffs, etc.) caused some delays in schedule. The classification societies have developed a highly detailed body of information on the submerged turret loading buoy-type deepwater ports, as well as practical experience with the actual deepwater port operations. This information, adopted as classification society standards, will improve and expedite the post-licensing engineering review and approval process.

- Proposed § 150.435 authorizes continuation of cargo transfer operations during an electrical storm. The potential cost savings derives from the ability to continue safe operations during certain electrical storms in accordance with the deepwater port's plans. The LNG port operators have stated that they cannot shut down operations during electrical storms as this will lead to potentially hazardous situations due to static electricity build-up.

**Table 3: Assessment of Impacts of the Proposed Rule.**

Description of Change	Type of Change	Cost Impact
§ 148.3 What Federal agencies are responsible for implementing the Deepwater Port Act?		

Description of Change	Type of Change	Cost Impact
Clarify the Coast Guard's role as the lead agency responsible for preparing the environmental impact analysis under NEPA, compliance with NEPA and other relevant environmental laws, and matters relating to navigation safety and security, engineering and safety standards, and facility inspections.	Administrative: Clarification of existing role	No cost
PHMSA is the Federal agency with jurisdiction over the construction and operation of pipeline components of a deepwater port.	Administrative: Clarification of existing authority of PHMSA	No cost
Expands the description of responsibilities for the Coast Guard and cooperating Federal agencies.	Administrative: Clarification of existing authority of cooperating Federal agencies	No cost
Delete the reference to an expired Interagency MOU between the Coast Guard and MARAD.	Administrative: Deletion of outdated reference	No cost
<b>§ 148.5 How are terms used in this subchapter defined?</b>		
Definition clarifies the requirements of a security plan's scope and contents and would align with 33 CFR subchapter H.	Administrative: Definition	No cost
Definition specifies the components that comprise the flexible riser and umbilical portion of a STL buoy system.	Administrative: Definition	No cost
Moved from § 149.5.	Administrative: Move	No cost
Definition clarifies that the operator of a deepwater port may be either the person who receives the license to operate (licensee), or the licensee's designated representative who is responsible for the day to day operation of the deepwater port.	Administrative: Definition	No cost
Definition clarifies jurisdictional boundaries regarding Federal agency oversight of deepwater pipelines between the Coast Guard and PHMSA regarding oversight of deepwater port pipelines.	Administrative: Definition	No cost
Definition clarifies that the PLEM includes the last downstream valve prior to the deepwater port pipeline.	Administrative: Definition	No cost
Definition to account for a new proposed post-licensing requirement.	Administrative: Definition	No cost
Moved from § 149.5.	Administrative: Move	No cost
Moved from § 149.5.	Administrative: Move	No cost
Definition distinguishes between deepwater ports that use STL buoys to affect cargo transfer and deepwater ports that use single point moorings for cargo transfer operations.	Administrative: Definition	No cost
<b>§ 148.8 How are certifying entities designated and used for purposes of this subchapter?</b>		
Allows the applicant to nominate a CE during the application processing phase in order to begin the technical review necessary for the approval of design, construction, installation, operation, maintenance and decommissioning plans for any proposed deepwater port.	Administrative: Provides flexibility in nominating CE earlier in process.	Possible time and cost savings. The CE can be nominated and chosen during MARAD evaluation period rather than waiting until after the ROD, allowing an earlier start to certification. The CE could begin a technical review during MARAD evaluation

Description of Change	Type of Change	Cost Impact
		period to identify potential problems and solutions before work has progressed further on an application.
<b>§ 148.105 What must I include in my application?</b>		
Clarifies that MARAD, and not the Coast Guard, is the lead agency responsible for matters regarding the DWPA financial responsibility aspect of a deepwater port application.	Administrative: Clarification of MARAD and the Coast Guard's existing roles re: DWPA financial responsibility.	No cost
Removes and replaces "operator" with "licensee" as the responsible party for costs associated with removal of port components.	Administrative: Clarification of who is financially responsible party.	No cost
Clarifies that the applicant must provide with its application a completed consistency certification stating that the proposed deepwater port complies with each affected State's Coastal Management Program per 15 CFR part 930, subpart D.	Administrative: Clarification of need for consistency certificate to comply with existing Coastal Zone Management Program requirements.	No cost
Allows an applicant to provide an equivalent means of certifying the accuracy of the leasing maps or protraction diagrams, as an alternative to using a professional surveyor.	Administrative: Provides flexibility in means of certifying accuracy of maps and diagrams.	Possible time and cost savings. As the Coast Guard processed applications, it became aware of the limited availability of registered professional surveyors authorized to certify Outer Continental Shelf leasing maps or protraction diagrams. This resulted in delays in application processing. By allowing for equivalent means of certification, this proposed change would broaden the spectrum of persons who would be able to provide the necessary professional competency to certify the accuracy or correctness of the leasing maps or protraction diagrams, and minimize delays in application processing.
Requires the site plan showing proposed anchorage and mooring areas to also include areas associated with construction and installation of deepwater port components (e.g., pipelaying) in addition to deepwater port operations.	Clarifies information needed to support application	No cost  Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays.
Allow exceptions to 5-year limit on age of data for certain hydrographic data.	Administrative: Provides flexibility by allowing the use of data older than 5 years	Potential time and cost savings. The proposed change would allow the use

<b>Description of Change</b>	<b>Type of Change</b>	<b>Cost Impact</b>
	under certain circumstances.	of older data, with Coast Guard approval. Use of older information may result in costs avoided to develop new data.
Requires an applicant to provide MetOcean data that includes prevailing winds, currents, waves and storm history in the affected area of the proposed deepwater port site.	Clarifies information needed to support application	No cost  Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays.
Requires an applicant to provide vessel traffic data to support analysis of navigational safety and security hazards.	Clarifies information needed to support application	No cost  Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays.
Clarifies that geological survey data includes not just soil analysis, but also the overall physical characteristics of the ocean bottom (e.g., soil mechanics).	Clarifies information needed to support application	No cost  Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays.
Formalizes the independent risk and consequence assessment process that has been customarily submitted as a supplement to the application.	Clarifies information needed to support application	No cost  Formalizes existing process (information already submitted as a supplement)
Requires the applicant to identify in the environmental evaluation section of the application a reasonable range of alternatives to the proposed action to include deepwater port location, pipeline routes and landfall locations (if applicable), construction methods, and deepwater port design and technologies used during operations.	Clarifies information needed to support application	No cost  Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays.
Requires the applicant to include in the deepwater port application a request for a COA as defined at 33 CFR 158.120 or a request for waiver if compliance is impracticable or unreasonable.	Clarifies information needed to support application	No cost  Information already compiled and submitted by all applicants to comply with MARPOL and APPS.
<b>§ 148.107 What happens if I supplement my application?</b>		
Allows for suspension of timeline if information required	Administrative:	No cost

<b>Description of Change</b>	<b>Type of Change</b>	<b>Cost Impact</b>
is not provided in a timely manner.	Formalizes existing process for suspending timeline.	Existing process for suspending timelines already in use when applicable.
Superseded.	Administrative: Removes and replaces with (d) and (e).	No cost
Superseded.	Administrative: Removes and replaces with (d) and (e).	No cost
Superseded.	Administrative: Removes and replaces with (d) and (e).	No cost
Replaces (2).	Administrative: Formalizes existing process for suspending timeline.	No cost
Replaces (3).	Administrative: Formalizes existing process for suspending timeline.	No cost
<b>§ 148.125 What are the application fees?</b>		
Adds environmental analysis as examples of costs for application and post-license review.	Administrative: Adding environmental analysis as example.	No cost Formalizes current industry practice. Clarifies current practice when processing deepwater port applications that costs for environmental analyses must be paid by applicant prior to commencing operation of deepwater port.
<b>§ 148.209 How is the application processed?</b>		
Removes reference to outdated MOU.	Administrative: Removes reference to outdated MOU.	No cost
<b>§ 148.211 What must I do if I need to change my application?</b>		
Formalizes process in the case of a significant change or required information.	Administrative: Formalizes existing process.	No cost
<b>§ 148.214 May I resubmit my application?</b>		
Formalizes process for re-submittal of application. Allows for resubmission of application with no filing fee.	Administrative: Formalizes process to allow for re-submittal of application.	Potential cost savings. Formalizes process that allows for resubmission of modified application with no filing fee.
<b>§ 148.217 How can a State be designated as an Adjacent Coastal State?</b>		
States that MARAD determines whether a State should be considered an Adjacent Coastal State, and that MARAD, in consultation with the Coast Guard, would designate the Adjacent Coastal States.	Administrative: Clarifies respective duties of Coast Guard and MARAD.	No cost
<b>§ 148.228 What if a formal evidentiary hearing is necessary?</b>		
Establishes procedures to be used for a formal evidentiary hearing.	Administrative: Provides procedures for existing hearings.	No cost

Description of Change	Type of Change	Cost Impact
Removes (b) – (d).	Administrative: Removes superseded requirements.	No cost
<b>§§ 148.230 through 148.256</b>		
Removes.	Administrative: Removes superseded requirements.	No cost
<b>§ 148.276 What is the timeline for approving or denying an application?</b>		
Describes timeline for action on a license including the publishing of a notice of application.	Administrative: Clarifies timing for publication of notice of application.	No cost
Describes MARAD public hearings in Adjacent Coastal States.	Administrative: Clarifies process for Adjacent Coastal State public hearings.	No cost
<b>§ 148.283 When may the application process be stopped and an application be treated as withdrawn?</b>		
Clarifies that MARAD and Commandant will provide a joint written notice to the applicant of action taken under this section.	Administrative: Clarification of joint written notice procedure.	No cost
Clarifies when a suspended application is considered withdrawn	Administrative: Substitutes “withdrawn” for “suspended” to describe when an application process is stopped.	No cost.
<b>§ 148.405 What are the procedures for notifying the Commandant (CG–5P) of proposed site evaluation and pre-construction testing?</b>		
Clarifies that BOEM guidelines for geological and geophysical surveys should be applied when the applicant plans to use bottom and sub-bottom acoustic profiling during deepwater port site evaluation and pre-construction activities.	Information for submission with application: Clarifies use of BOEM guidelines for certain data.	No cost Does not add a new requirement, but clarifies what standards would be sufficient for the Coast Guard to properly evaluate an applicant's deepwater port site evaluation and pre-construction testing plans. Applicants currently use BOEM guidelines.
<b>§ 148.605 What are the procedures under OPA 90 for adjusting a deepwater port's limit of liability under 33 U.S.C. 2704(d)(2)?</b>		
Clarifies that Coast Guard may lower the OPA 90 limit of liability for deepwater ports under 33 U.S.C. 2704(d)(2) on a port-by-port basis, after evaluating oil spill risk and economic analyses.	Administrative: Clarifies process for existing authority for CG to lower the OPA 90 limit of liability for deepwater ports.	No cost Explains process to lower oil spill liability limits. Requires no change of behavior.
Discusses that the OPA 90 limit of liability of a deepwater port will not be reduced to less than \$50 million, and may be increased following a reduction, as the Coast Guard deems appropriate, if the design, construction, or operation of the deepwater port changes, or if oil spill incidents related to the deepwater port, or to deepwater ports generally, indicate that a higher limit is needed.	Administrative: Sets minimum level for OPA 90 limit of liability adjustments and describes process for increases as appropriate.	No cost Explains OPA 90 liability adjustments. Requires no change of behavior.
Describes that requests for adjustments to the OPA 90 deepwater port limit of liability may be submitted with a license application or upon receipt of a license from MARAD to construct and operate the proposed deepwater	Administrative: Clarifies process for existing authority for CG to lower OPA 90 limit of liability.	No cost Explains OPA 90 liability adjustments. Requires no change of behavior.

Description of Change	Type of Change	Cost Impact
port.		
Describes the contents of requests to adjust the limit of liability under 33 U.S.C. 2704(d)(2), including a risk analysis of the deepwater port to determine its maximum most probable oil discharge and an economic analysis to determine the removal costs and damages of such a spill.	Additional Information: Lists information required to support an adjustment to liability.	No cost The industry is currently required by OPA 90 to perform this risk analysis.
<b>§ 148.707 What type of criteria will be used in an environmental evaluation and how will they be applied?</b>		
(b) Expands the list of resource areas which will be considered in the environmental impact analysis to include, without being limited to, threatened species; marine protected areas; marine, coastal, and migratory birds; marine mammals; and fisheries.	Additional Information: Clarifies existing requirements for NEPA submissions.	No cost The intent of this revision is to clarify that the existing NEPA and DWPA requirements must be met. This has always been required under NEPA and DWPA in order to develop and publish the EIS, and to initiate Endangered Species Act Section 7 consultation w/NFMS & FWS.
<b>§ 148.715 How is an environmental review conducted?</b>		
Adds the following to the existing list of factors: geographic relevance, age of data, and methods of data analysis.	Administrative: Specifies data already required and data quality for Coast Guard review.	No cost
<b>§ 148.737 What environmental statutes must an applicant follow?</b>		
Removes the list of environmental statutes and executive orders and replaces it with a reference to the list on the Commandant Web site.	Administrative: Replaces list of statutes with reference to Web site so list can be kept current.	No cost
<b>§ 149.5 What definitions apply to this part?</b>		
Moves to definitions section 148.5.	Administrative: Moved.	No cost
<b>§ 149.15 What is the process for submitting alterations and modifications affecting the design and construction of a deepwater port?</b>		
Contains procedures for preparation and submission of plans pertaining to design, construction and operation of the deepwater port, and the Coast Guard's review and approval of these proposed plans.	Administrative: Removed to § 149.54.	No cost
<b>§ 149.20 What must the District Commander be notified of and when?</b>		
Adds that the District Commander must be notified of the construction of a STL buoy.	Administrative: Clarifies existing practice by adding STL buoy.	No cost Current industry practice that all STL buoy applicants notify District Commander.
<b>§ 149.51 What construction drawings and specifications are required?</b>		
Allows a foreign national engineer, possessing qualifications equivalent to those required in the United States for a professional engineer, to submit design and construction plans on behalf of the licensee.	Qualifications: Allows equivalent qualifications for foreign national engineer.	Potential cost savings due to flexibility
<b>§ 149.52 What are the design standards?</b>		
Clarifies what the appropriate classification society requirements are for deepwater ports. This proposed change would be added to explicitly allow for the adoption of classification society standards generally used	Classification standards: Allows the use of classification society standards as generally used within the industry.	Provides alternative for compliance that has potential cost savings due to use of existing industry

Description of Change	Type of Change	Cost Impact
within the offshore industry that are at least equivalent to rules established by any recognized classification society recognized by the Coast Guard.		classification society standards by recognizing work already completed by a classification society, eliminating the potential for duplicating effort.
<b>§ 149.54 What is the process for submitting alterations and modifications affecting the design, construction, and operations of a deepwater port?</b>		
Moved from another section.	Administrative: Moves existing text from other section.	No cost
<b>§ 149.57 What is the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?</b>		
Provides standardization of the deepwater port commissioning process, ensures all levels of the Coast Guard with deepwater port responsibilities are appraised of a deepwater port's pending operational approval, and clarifies for the licensee the identity of the responsible Coast Guard official with daily operational oversight.	Administrative: Describes process, clarifies responsibilities.	No cost Uses existing Coast Guard resources.
<b>§ 149.58 What is the role of the certifying entity in the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?</b>		
Describes the scope and duration of a CE's responsibility during each phase of design, construction, and operations, and would apply to all nominated CEs whether nominated under proposed § 148.8 or not.	Certifying entity: Describes scope and duration of CE responsibility.	No cost Current industry practice. Clarifies the role of the technical contractor they have already been employing to develop the application to assume the role as CE for the design, construction, installation, and commencement of deepwater port operations.
<b>§ 149.115 What are the requirements for pipeline end manifold shutoff valves?</b>		
Revises to indicate that the PLEM's shutoff valve must be operable from a remote location because that capability must be available for operations on unmanned deepwater ports as well as during emergencies.	Equipment requirement: Pipeline end manifold's shutoff valve must be operable from remote location	No cost Formalizes current industry practice. Remotely-operated shutoff valves are already required to be installed on all currently active deepwater ports. (i.e., 49 CFR 193 (PHMSA) for LNG deepwater ports), as well as be designed and maintained in accordance with Classification Society Rules (ABS and DNV).
<b>§ 149.206 What are the requirements for survival craft and rescue boats?</b>		
Aligns the requirements for survival craft and rescue boats for manned deepwater ports with Coast Guard requirements for survival craft and rescue boats for MODUs in 46 CFR 108.520 – 108.575.	Survival craft: Aligns requirements with MODU CFRs.	No cost Formalizes current industry practice. LOOP is the only manned deepwater port and is currently equipped w/SOLAS-compliant survival craft, thus already



Description of Change	Type of Change	Cost Impact
		complying with this regulation change. The cost for operating and maintaining these craft is already factored into port operational budget. Future manned deepwater ports are also expected to comply with SOLAS survival craft requirements.
<b>§ 149.306 through 149.315</b>		
Removes sections.	Administrative: Removed.	No cost
<b>§ 150.10 What are the general requirements for operations manuals?</b>		
To ensure operations manuals are subject to continuous review and reflect the deepwater port's actual operational profile, the Coast Guard proposes in § 150.10(e) to establish a 5-year cycle for the operator to re-submit the operations manual to the Commandant (CG-5P) to be re-reviewed and re-approved. This 5-year review cycle would coincide with the existing 5-year environmental baseline reassessment requirement found at § 150.15(bb).	Operations manual: 5-year cycle to resubmit operational manual for review.	No cost Formalizes current industry practice and recognizes established procedure. Deepwater port operators have been submitting their operations manuals on a 5-year cycle for nearly 10 years to comply with MTSA requirements, permits, and requirements from other Federal agencies.
<b>§ 150.15 What must the operations manual include?</b>		
Require that the operations manual include either the deepwater port's COA that certifies the deepwater port meets the requirements for reception facilities as required under 33 CFR part 158, or to include a waiver of the COA issued by the responsible Sector Commander or MSU Commander with COTP and OCMI authority.	Operations manual: Specifies inclusion of existing COA in manual.	No cost Formalizes current industry practice.
Comprehensive audit program to ensure that the deepwater port operator has an approved and regularly reviewed deepwater port security plan. To help fulfill this verification requirement, the Coast Guard would implement an annual audit program for deepwater ports that would align with, and the report of audit results would be an attachment to, the annual self-inspection report that the operator is already required to provide to the responsible Sector Commander or MSU Commander with COTP and OCMI authority as specified at § 150.105. This proposed requirement would allow the Sector Commander or MSU Commander with COTP and OCMI authority to verify that the deepwater port operator has the necessary personnel and procedures in place to respond to a security incident in a manner that adequately protects the deepwater port, human health, and the environment.	Audit program for port security plan: Establishes a requirement for annual audit of port security plan. Results are submitted as attachment to existing annual self-inspection report.	No cost. The deepwater port security plan is a subset of the operations manual. As stated above, LOOP and the LNG deepwater port operators are already employing contractors to conduct and produce port security assessments and to update the operations and security plans as needed. This regulatory revision is formalizing what is current industry practice and meets the approval of the cognizant COTP.
Establishes that the deepwater port security plan must be audited if there is a change in ownership or operations of the deepwater port, or if there have been modifications to the deepwater port.	Audit program for port security plan: Establishes requirement for audit of security plan if there is a	No cost. Formalizes current industry practice. Existing Coast Guard deepwater port

Description of Change	Type of Change	Cost Impact
	change in ownership, operations or modification to the port.	regulations (§ 150.15(x)) require the operator to maintain a security plan “comparable to part 106.” Part 106, in turn, requires the security plan to be audited annually and to be submitted to Coast Guard for re-approval every 5 years. No currently operating deepwater port has had more than annual audits.
Limits the scope of audits of the port security plan to only those sections affected by the modifications.	Audit program for port security plan: Clarifies existing requirements in 106.415(b)(3).	No cost. Clarifies existing requirements in 106.415(b)(3).
Requires submittal of the proposed amendment to the cognizant Sector Commander or MSU Commander with COTP and OCMI authority, with copy to the Commandant for review and approval.	Audit program for port security plan: Establishes process if audit results require amendment.	No cost Formalizes current industry practice. Existing Coast Guard deepwater port regulations (§150.15(x)) require the operator to maintain a security plan “comparable to part 106.” Part 106, in turn, requires the security plan to be audited annually and to be submitted to Coast Guard for re-approval every 5 years.
Establishes that the Sector Commander or MSU Commander with COTP and OCMI authority will normally perform an annual security inspection to verify the findings in the audit. The Sector Commander or MSU Commander with COTP and OCMI authority will perform a more detailed deepwater port security plan review at prescribed 5-year intervals following initial approval of the deepwater port security plan and will include onsite inspection of personnel assignments and qualifications, observance of security drills, and other security exercises as necessary.	Security plans: Establishes requirement for Sector Commander or MSU Commander with COTP and OCMI authority to perform annual security inspection and 5-year security plan review.	No cost Formalizes current industry practice. Existing Coast Guard deepwater port regulations (§150.15(x)) require the operator to maintain a security plan “comparable to part 106.” Part 106, in turn, requires the security plan to be audited annually and to be submitted to Coast Guard for re-approval every 5 years.
Adopts the use of a formal PMMP. Currently, every licensed deepwater port has a PMMP as a condition of the MARAD-issued license by making the PMMP a requirement of the operations manual.	Operations manual: Requires that existing PMMP be incorporated as part of the operations manual.	No cost Current industry practice as every deepwater port has a PMMP to get a license. This also harmonizes with MARAD requirements.
Requires the operator to develop a manual that addresses deepwater port pipeline operations, maintenance and emergencies. This manual, which would be an appendix to the operations manual, would incorporate procedures	Procedural manual for pipelines: Requires development of a procedures manual for pipelines incorporating existing PHMSA	No cost. Formalizes current industry practice and is also currently required as a condition of

Description of Change	Type of Change	Cost Impact
that meet the requirements of PHMSA regulations.	requirements.	the MARAD-issued license for PHMSA approval. Has been submitted by all applicants for deepwater ports.
<b>§ 150.25 When will the Coast Guard require amendments to the operations manual?</b>		
Amends the regulation to clarify that if the responsible Sector Commander or MSU Commander with COTP and OCMI authority determines that the licensee's proposed amendments to the operations manual are inadequate, the COTP may return the proposed amendments to the licensee for revision.	Administrative: Clarifies responsibility of Sector Commander or MSU Commander with COTP and OCMI authority with respect to operations manual amendments.	No cost
Explicitly enables other Federal agencies to propose amendments of the operations manual to Commandant.	Administrative: Enables other Federal agencies to propose amendments to operations manual.	No cost
<b>§ 150.30 How may the licensee propose an amendment to the operations manual?</b>		
Adds new paragraph (a) to state that the applicant must provide Commandant with a copy of the proposed amendment. Commandant would then notify MARAD prior to approval of significant changes to the deepwater port's operations.	Amendment to Operations Manual: Process for submittal and notification of amendment	No cost Formalizes current industry practice. These types of changes requiring Coast Guard review and approval are already routinely submitted electronically to Coast Guard.
<b>§ 150.100 What are the requirements for inspecting deepwater ports?</b>		
Adds new paragraph (b) to affirm that other Federal agency representatives may accompany Coast Guard personnel during an inspection of a deepwater port to verify compliance in those areas of operations over which each agency has jurisdiction.	Administrative: Clarifies that representatives from other Federal agencies can accompany Coast Guard personnel during an inspection.	No cost
<b>§ 150.105 What are the requirements for annual self-inspection?</b>		
Revises the procedures for development and approval of a deepwater port self-inspection program by which deepwater ports may, prior to commencement of operations, submit a self-inspection program to the responsible Sector Commander or MSU Commander with COTP and OCMI authority for consideration and approval.	Self-inspection Program: Clarifies existing procedures for development of self-inspection program.	No cost Clarifies existing procedures for development of self-inspection program.
Requires that the responsible Sector Commander or MSU Commander with COTP and OCMI authority validate the results of each inspection. If the Sector Commander or MSU Commander with COTP and OCMI authority determines the deepwater port is not operating in conformity with its operations manual or license, the Sector Commander or MSU Commander with COTP and OCMI authority must direct appropriate corrective action and notify Commandant (CG-5P) and, if there is a possible violation of a license condition, notify MARAD.	Administrative: Clarifies procedures for validation of inspections.	No cost
<b>§ 150.107 What notice must be given in the event of inspections?</b>		
Requires that the operator notify the responsible Sector Commander or MSU Commander with COTP and OCMI authority when a Federal or State agency schedules an inspection, and retain the record of results of any Federal	Notification of inspection: Operator must notify Sector Commander or MSU Commander with COTP and OCMI authority	No cost Formalizes current industry practice. These types of changes requiring Coast

<b>Description of Change</b>	<b>Type of Change</b>	<b>Cost Impact</b>
or State agency inspection, and make those records available for review upon request from the responsible Sector Commander or MSU Commander with COTP and OCMI authority or his or her designated representative.	of Federal or State inspection and retain records of inspections.	Guard review and approval are already routinely submitted to Coast Guard.
<b>§ 150.110 What are the notification requirements upon receipt of classification society certifications?</b>		
Requires that the deepwater port operator notify the responsible Sector Commander or MSU Commander with COTP and OCMI authority of any changes to the deepwater port's classification status to ensure the deepwater port's operations are carried out in a manner that is safe for personnel and protective of the environment.	Notification of classification status: Operator must notify Sector Commander or MSU Commander with COTP and OCMI authority of changes to classification status.	No cost Formalizes current industry practice. These types of changes requiring Coast Guard review and approval are already routinely submitted to Coast Guard.
<b>§ 150.225 What training and instruction are required?</b>		
Ensures that all employees, regardless of status, receive basic safety training as soon as practicable after reporting to the deepwater port.	Training: Requires that all employees receive basic safety training.	No cost Consolidates existing training requirements that are currently scattered throughout part 150. All deepwater ports currently require basic safety training for all crew and persons other than crew on deepwater ports.
<b>§ 150.435 When are cargo transfers not allowed?</b>		
Authorizes continuation of cargo transfers during an electrical storm in the vicinity of the deepwater port so long as the operations manual contains approved procedures, with which the deepwater port operator is in compliance, to ensure the safety of personnel, equipment and the environment.	Cargo transfers: Allows continuation of cargo transfers during electrical storms if certain procedures are used.	Potential cost savings due to flexibility in continuing operations. Also, LNG ports must maintain operations to avoid possible hazardous situations.
<b>§ 150.830 Reporting a pollution incident.</b>		
Requires that the person in charge report oil pollution incidents involving a deepwater port according to §§ 135.305 and 135.307.	Notification of oil pollution incidents: Requires that person in charge report oil pollution incidents.	No cost Already required in § 135.307.

## **Benefits**

The benefits of the proposed rule are summarized below. See Table 4 for more detailed marginal benefit analysis.

### *Part 148*

The main purpose of the revisions to 33 CFR part 148 in this proposed rule is to clarify the deepwater port application process. The roles of the Coast Guard, MARAD, BOEM, and other Federal agencies would be further clarified to insure applicants better

understand the application process. The Coast Guard also proposed to revise the definitions used in parts 148, 149, and 150 to reflect actual operations.

The benefits for 33 CFR part 148 would come from incorporating lessons learned from the history of deepwater port applications. The Coast Guard frequently finds that applications cannot be fully processed without time-consuming delays to obtain additional data from applicants. The result may require the Coast Guard to “stop the clock” on the application review process. This proposed rule will likely reduce the periods when the “clock is stopped,” and expedite the application process.

#### *Part 149*

The proposed changes in 33 CFR part 149 are mainly technical and administrative in nature to clarify the review and approval process. The proposed changes would allow for increased flexibility in the review and approval process and for certifying entities.

#### *Part 150*

The proposed changes to part 150 of Title 33 would consolidate operational requirements and codify current industry practice to improve understanding of, and compliance with, good operational practices.

**Table 4: Assessment of Benefits of the Proposed Rule.**

<b>Section</b>	<b>Description of Change</b>	<b>Beneficial Impact of Change</b>
<b>§ 148.3 What Federal agencies are responsible for implementing the Deepwater Port Act?</b>	Describes Coast Guard’s role as the lead agency responsible for NEPA compliance. Also describes the responsibilities of PHMSA and other federal agencies. Deletes reference to expired MOU.	Clarifies for applicant the roles and responsibilities of Coast Guard and other Federal agencies to enhance understanding of application process.
<b>§ 148.5 How are terms in this subchapter defined?</b>	Administrative definitions and reorganization.	Clarification of various terms.
<b>§ 148.8 How are certifying entities designated and used for purposes of this subchapter.</b>	Allows the applicant to nominate a CE during the application processing phase in order to begin the technical review necessary for the approval of design, construction, installation, operation, maintenance and decommissioning plans for any proposed deepwater port.	Possible time and cost savings. The CE can be nominated and chosen during the MARAD evaluation period, rather than waiting until after the ROD, allowing earlier start to certification. The CE could begin technical review during MARAD evaluation period to identify potential problems and solutions before work has

<b>Section</b>	<b>Description of Change</b>	<b>Beneficial Impact of Change</b>
		progressed on a application.
<b>§ 148.105 What must I include in my application?</b>	Various Administrative measures.	Clarifies roles of Coast Guard and MARAD, and who is a financially responsible party, and provides consistency with Coastal Zone Management Act procedures to enhance understanding of application process.
<b>§ 148.105 What must I include in my application?</b>	Provides flexibility in means of certifying accuracy of maps and diagrams.	Possible time and cost savings. As the Coast Guard processed applications, it became aware of the unavailability of registered professional surveyors authorized to certify Outer Continental Shelf leasing maps or protraction diagrams. This resulted in delays in application processing. By allowing for equivalent certifications, this proposed change would broaden the spectrum of persons who could certify the accuracy or correctness of the leasing maps or protraction diagrams, and minimize delays in application processing.
<b>§ 148.105 What must I include in my application?</b>	Allows use of data older than 5 years under certain circumstances.	Potential time and cost savings. The proposed change would allow the use of older data, with Coast Guard approval. Use of older information may result in costs avoided to develop new data.
<b>§ 148.105 What must I include in my application?</b>	Specifies various information to be included with application.	Clarifies information to be included with the application to prevent “stopping the clock” if information is requested during application review.
<b>§ 148.107 What happens if I supplement my application?</b>	Various Administrative changes, including formalizing existing process for suspending timeline.	Clarifies existing process and enhances understanding by removing outdated discussion.
<b>§ 148.125 What are the application fees?</b>	Administrative change that adds environmental analysis as examples of costs for application and post-license review.	Clarifies the existing practice that environmental analysis costs are part of application and post-license review.
<b>§ 148.209 How is the application processed?</b>	Administrative change that removes reference to outdated MOU.	Clarifies existing process by removing outdated references.
<b>§ 148.211 What must I do if I need to change my application?</b>	Formalizes existing process in the case of a significant change or required information.	Clarifies existing process to enhance understanding of application process.
<b>§ 148.214 May I resubmit my application?</b>	Formalizes process to allow for re-submittal of application.	Potential cost savings. The proposed change allows for the resubmission of an application after a modification with no filing fee. The existing process allows resubmission, but a filing fee for the re-submittal applies.
<b>§ 148.217 How can a State be designated as an Adjacent Coastal State?</b>	Clarifies respective duties of Coast Guard and MARAD	Clarifies existing process to enhance understanding of application process.
<b>§ 148.228 What if a formal evidentiary hearing is necessary?</b>	Provides procedures for existing hearings and removes superseded requirements.	Clarifies existing process to enhance understanding of application process.
<b>§§ 148.230 through 148.256</b>	Removes superseded requirements.	Clarifies existing process to enhance understanding of application process.

<b>Section</b>	<b>Description of Change</b>	<b>Beneficial Impact of Change</b>
<b>§ 148.276 What is the timeline for approving or denying an application?</b>	Describes timing for publication of notice of application and process for Adjacent Coastal State public hearings.	Clarifies existing process to enhance understanding of application process.
<b>§ 148.283 When may the application process be stopped and an application be treated as withdrawn?</b>	Describes that MARAD and Commandant will provide joint written statement to the applicant of action taken under this section.	Clarifies existing process to enhance understanding of application process.
<b>§ 148.405 What are the procedures for notifying the Commandant (CG–5P) of proposed site evaluation and pre-construction testing?</b>	Clarifies that BOEM guidelines for geological and geophysical surveys should be applied when the applicant plans to use bottom and sub-bottom acoustic profiling during deepwater port site evaluation and pre-construction activities.	Clarifies existing process to enhance understanding of application process.
<b>§ 148.605 What are the procedures under OPA 90 for adjusting a deepwater port's limit of liability under 33 U.S.C. 2704(d)(2)?</b>	Clarifies process for existing authority for Coast Guard to lower the OPA 90 limit of liability for deepwater ports; sets minimum level for OPA 90 limit of liability adjustments and describes process for increases as appropriate; lists information required to support an adjustment to liability.	Clarifies existing process to enhance understanding of application process.
<b>§ 148.707 What type of criteria will be used in an environmental evaluation and how will they be applied?</b>	Clarifies existing requirements for NEPA submissions.	Clarifies information to be included with the Application to prevent “stopping the clock” if information is requested during application review.
<b>§ 148.707 What type of criteria will be used in an environmental evaluation and how will they be applied?</b>	Deletes requirement to consider future environmental regulations as unreasonable.	Possible time and cost savings. Consideration of future environmental regulations time consuming and requires speculation. Allows focus on complying with existing regulations.
<b>§ 148.715 How is an environmental review conducted?</b>	Adds the following to the existing list of factors: geographic relevance, age of data, and methods of data analysis.	Clarifies information to be included with the application to prevent “stopping the clock” if information is requested during application review.
<b>§ 148.737 What environmental statutes must an applicant follow?</b>	Replaces list of statutes with reference to Web site so list can be kept current.	Allows for easier update of list of statutes that applicant must follow.
<b>§ 149.5 What definitions apply to this part?</b>	Moves to definition section 148.5.	Administrative to enhance understanding of application process by consolidating definitions.
<b>§ 149.20 What must the District Commander be notified of and when?</b>	Adds that the District Commander must be notified of the construction of a submerged turret loading (STL) buoy.	Clarifies existing requirement by adding STL.

<b>Section</b>	<b>Description of Change</b>	<b>Beneficial Impact of Change</b>
<b>§ 149.51 What construction drawings and specifications are required?</b>	Allows a foreign national engineer, possessing qualifications equivalent to those required in the United States for a professional engineer, to submit design and construction plans on behalf of the licensee.	Potential cost savings due to flexibility by allowing equivalent qualifications for foreign national engineer thereby avoiding potential delays.
<b>§ 149.52 What are the design standards?</b>	Clarifies what the appropriate classification society requirements are for deepwater ports. This proposed change would be added to explicitly allow for the adoption of classification society standards generally used within the offshore industry that are at least equivalent to rules established by any recognized classification society recognized by the Coast Guard.	Potential cost savings due to use of existing industry classification society standards.
<b>§ 149.54 What is the process for submitting alterations and modifications affecting the design, construction, and operations of a deepwater port?</b>	Moves existing text from other section.	Reorganizes text to enhance understanding.
<b>§ 149.57 What is the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?</b>	Provides standardization of the deepwater port commissioning process, ensures all levels of the Coast Guard with deepwater port responsibilities are appraised of a deepwater port's pending operational approval, and clarifies for the licensee the identity of the responsible Coast Guard official with daily operational oversight.	Describes the review and approval process and clarifies responsibilities to facilitate understanding of the process.
<b>§ 149.58 What is the role of the certifying entity in the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?</b>	Describes the scope and duration of a CE's responsibility during each phase of design, construction, and operations, and would apply to all nominated CEs whether nominated under proposed § 148.8 or not. (discussed previously under "B. Part 148, 2. Application Information and Review").	Clarifies scope and duration of CE's responsibility to enhance understanding of how the CE assists the application process.
<b>§ 149.115 What are the requirements for pipeline end manifold shutoff valves?</b>	Revises to indicate that the pipeline end manifold's shutoff valve must be operable from a remote location because that capability must be available for operations on unmanned deepwater ports as well as during emergencies.	Clarifies existing requirements to improve ability to respond to emergencies and on unmanned facilities through the use of remote shutoff valves.
<b>§ 149.206 What are the requirements for survival craft and rescue boats?</b>	Aligns the requirements for survival craft and rescue boats for manned deepwater ports with Coast Guard regulations for the survival craft and rescue boat requirements for Mobile Offshore Drilling Units (MODU) in 46 CFR 108.520 – 108.575.	Enhances understanding by aligning requirements with MODU CFR.
<b>§ 150.10 What are the general requirements for</b>	To ensure operations manuals are subject to continuous review and reflect the deepwater port's actual operational profile, the Coast	Clarifies requirements for operations manual review to enhance understanding of process.



<b>Section</b>	<b>Description of Change</b>	<b>Beneficial Impact of Change</b>
<b>operations manuals?</b>	Guard proposes in § 150.10(e) to establish a five-year cycle for the operator to re-submit the operations manual to the Commandant (CG-5P) to be re-reviewed and re-approved. This 5-year review cycle would coincide with the existing five-year environmental baseline reassessment requirement found at § 150.15(bb).	
<b>§ 150.15 What must the operations manual include?</b>	Specifies details of operations manual including inclusion of existing COA and existing PMMP. Describes the annual audit of deepwater port security plan and clarifies scope of audits audit to modification.  Requires development of a procedures manual for pipelines incorporating existing PHMSA requirements.  Establishes requirement for Sector Commander or MSU Commander with COTP and OCMI authority to perform annual security inspection and 5-year security plan review.	Potential time and cost savings. Streamlines approval by ensuring that manual meets existing COA, MTSA, and PMMP/PHMSA requirements.
<b>§ 150.25 When will the Coast Guard require amendments to the operations manual?</b>	Clarifies responsibility of Sector Commander or MSU Commander with COTP and OCMI authority with respect to operations manual amendments and enables other Federal agencies to propose amendments to operations manual.	Enhances understanding of process by clarifying responsibilities of Coast Guard and other Federal agencies with regards to amendments to operations manual.
<b>§ 150.30 How may the licensee propose an amendment to the operations manual?</b>	Adds new paragraph (a) to state that the applicant must provide Commandant with a copy of the proposed amendment. Commandant would then notify MARAD prior to approval of significant changes to the deepwater port's operations.	Enhances understanding of process by clarifying process for amending operations manual and notifying MARAD.
<b>§ 150.100 What are the requirements for inspecting deepwater ports?</b>	Adds language that representatives from other Federal agencies can accompany Coast Guard personnel during an inspection.	Enhances understanding of process by clarifying that representatives from other Federal agencies can accompany Coast Guard personnel during an inspection.
<b>§ 150.105 What are the requirements for annual self-inspection?</b>	Clarifies the existing procedures for development and approval of a deepwater port self-inspection program by which deepwater ports may, prior to commencement of operations, submit a self-inspection program to the responsible Sector Commander or MSU Commander with COTP and OCMI authority for consideration and approval.	Enhances understanding of process by clarifying the existing procedures for developing and approving a self-inspection program.
<b>§ 150.107 What notice must be given in the event of inspections?</b>	Operator must notify Sector Commander or MSU Commander with COTP and OCMI authority of Federal or State inspection and retain records of inspections.	Formalizes current industry practice relating to notice of inspections.
<b>§ 150.110 What are the notification requirements upon receipt of classification society certifications?</b>	Operator must notify Sector Commander or MSU Commander with COTP and OCMI authority of changes to classification status.	Formalizes current industry practice relating to changes to classification.

<b>Section</b>	<b>Description of Change</b>	<b>Beneficial Impact of Change</b>
<b>§ 150.225 What training and instruction are required?</b>	Describes basic safety training requirements for all employees.	Clarifies existing regulatory requirements for basic safety training for all employees.
<b>§ 150.435 When are cargo transfers not allowed?</b>	Allows continuation of cargo transfers during electrical storms if certain procedures are used.	Potential cost savings due to flexibility in continuing operations. Also, LNG ports must maintain operations to avoid possible hazardous situations.
<b>§ 150.830 Reporting a pollution incident.</b>	Describes process for reporting oil pollution incidents.	Enhances understanding of process by clarifying existing regulatory requirements for reporting oil pollution incidents.

## **B. Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this final rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and government jurisdictions with populations of less than 50,000.

There are three entities that operate existing deepwater ports. LOOP is owned by a consortium of three multinational energy corporations. The owners/operators of LOOP are not small; therefore, LOOP exceeds the threshold for a small entity. Gulf Gateway and Northeast Gateway are wholly owned by the second entity, which exceeds the threshold for a small entity. The deepwater port Neptune LNG is wholly owned by the third entity, which exceeds the threshold for a small entity. The applicants of the five applications that were withdrawn also exceed the threshold for a small entity. We assume that any new deepwater port will not be a small entity given the history and requirements for a new deepwater port. The North American Industry Classification System (NAICS) codes and size standards for these entities are found in Table 5.

**Table 5: NAICS Codes and Size Standard for Deepwater Port Operators.**

Count of companies	NAICS Code	Size Standard
1	486110 Pipeline Transportation of Crude Oil	1,500 Employees
1	424710 Petroleum Bulk Stations and Terminals	100 Employees
1	211111 Oil and Gas Extraction	500 Employees
2	221210 Natural Gas Distribution	500 Employees

No not-for-profit organizations are involved with deepwater ports. Deepwater ports are beyond the boundary line and therefore beyond small government jurisdiction. This proposed rule will not have an adverse impact on small government entities.

Therefore the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under ADDRESSES. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

### **C. Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act

of 1996,<sup>19</sup> we want to assist small entities in understanding this proposed rule so that they could better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Kevin Tone, Deepwater Ports Standards Division (CG-OES-4), email Kevin.P.Tone@uscg.mil, phone (202) 372-1441. The Coast Guard will not retaliate against the small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### **D. Collection of Information**

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995<sup>20</sup> (PRA). Under OMB regulations implementing the PRA, "Controlling Paperwork Burdens on the Public" (5 CFR 1320), "collection of information" means the obtaining, soliciting, or requiring the disclosure to an agency of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons. "Ten or more persons" refers to the number of respondents to whom a collection of

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<sup>19</sup> Public Law 104-121.

<sup>20</sup> 44 U.S.C. 3501 – 3520.

information is addressed by the agency within any 12-month period and does not include employees of the respondent acting within the scope of their employment, contractors engaged by a respondent for the purpose of complying with the collection of information, or current employees of the Federal government. Collections of information affecting ten or more respondents within any 12-month period require OMB review and approval.

This proposed rule comprises deepwater port application, operation, and oversight procedures. The Coast Guard expects fewer than ten entities in the natural gas industry would be affected by this rule within any 12-month period because there are only four deepwater ports currently in operation, and the Coast Guard does not expect to receive ten or more applications in any future year because it has received only eight applications in the last five years combined. Thus, we expect to receive less than 10 applications per year; less than 10 submissions of design, construction, and equipment modification per year; and less than 10 proposals to amend approved Operation Manuals per year. Consequently, the number of respondents is less than the threshold of ten respondents per 12-month period for collection of information requirements under the PRA.

#### **E. Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis is explained below.

Congress conferred rulemaking authority on the Secretary of Transportation to promulgate regulations to carry out the provisions of the DWPA. Relating to deepwater port licenses, 33 U.S.C. 1504(a) states that the Secretary “shall...issue regulations to carry out the purposes and provisions of [the DWPA]...Such regulations shall pertain to, but need not be limited to, application, issuance, transfer, renewal, suspension, and termination of licenses.” As noted above, when the Coast Guard was transferred to DHS, certain authorities and functions that were delegated to the Coast Guard while operating as a part of the Department of Transportation remained with the Coast Guard after its transfer to DHS. As such, the Coast Guard retained its delegated authority to establish the regulatory framework governing the application and licensing process of deepwater ports. Although Congress specifically provided for affected States to play a role in the licensing process of deepwater ports, the authorities exercised by the Coast Guard in this rulemaking do not involve those delineated State roles or responsibilities as they establish the licensing procedures themselves. Congress made clear in the language of the DWPA that the authority to establish licensing procedures was reserved to the Coast Guard and States may not regulate within this category. Therefore, the proposed rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

Additionally, the Coast Guard was granted the authority by Congress, through delegation, to issue regulations to improve safety in deepwater ports. 33 U.S.C. 1509(b) states that the Secretary “shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.” As this proposed rule revises provisions regarding the construction, design, equipment, and

operation of deepwater ports, it falls within the scope of authority Congress granted exclusively to the Secretary. This authority has been delegated to the Coast Guard and is exercised in this rulemaking, and the States may not regulate within these categories of construction, design, equipment and operation for deepwater ports. Therefore, the proposed rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of authority to issue regulations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this proposed rule has implications for federalism under Executive Order 13132, please contact the person listed in the FOR FURTHER INFORMATION section of this preamble.

#### **F. Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995<sup>21</sup> requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

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<sup>21</sup> 2 U.S.C. 1531-1538.

### **G. Taking of Private Property**

This proposed rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### **H. Civil Justice Reform**

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### **I. Protection of Children**

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### **J. Indian Tribal Governments**

This proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### **K. Energy Effects**

We have analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that Order. Though it is a



“significant regulatory action” under E.O. 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

#### **L. Technical Standards**

The National Technology Transfer and Advancement Act<sup>22</sup> directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **M. Environment**

We have analyzed this proposed rule under DHS Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969,<sup>23</sup> and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the “Public Participation and Request for Comments” section of

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<sup>22</sup> Codified as a note to 15 U.S.C. 272.

<sup>23</sup> 42 U.S.C. 4321-4370f.

this preamble. This action falls under section 2.B.2, figure 2-1, paragraph (34)(a) and involves regulations that are editorial or procedural, such as those updating or establishing application procedures. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### **List of Subjects**

#### **33 CFR Part 148**

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

#### **33 CFR Part 149**

Fire prevention, Harbors, Marine Safety, Navigation (water), Occupational safety and health, Oil pollution.

#### **33 CFR Part 150**

Harbors, Incorporation by reference, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 148, 149, and 150 as follows:

### **PART 148—DEEPWATER PORTS: GENERAL**

1. The authority citation for part 148 continues to read as follows:

**Authority:** 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

2. Revise § 148.3 to read as follows:

**§ 148.3 What Federal agencies are responsible for implementing the Deepwater Port Act?**

(a) Under delegations from the Secretary of Homeland Security and the Secretary of Transportation, the Coast Guard and MARAD coordinate with each other in processing applications for the issuance, transfer, or amendment of a license for the construction and operation of a deepwater port.

(b) The Coast Guard is responsible for compliance with the National Environmental Policy Act (NEPA), including, but not limited to, preparation of the appropriate environmental documents (Environmental Impact Statement, Environmental Assessment, and/or a State-required Environmental Impact Report) for each deepwater port license application. The Coast Guard also has authority over certain matters relating to navigation safety and security, engineering and safety standards and deepwater port inspections.

(c) MARAD is responsible for issuing the Record of Decision to announce whether a license application is approved, approved with conditions, or denied, and for issuing, revoking, and reinstating deepwater port licenses. MARAD also has authority over the approval of fees charged by Adjacent Coastal States, and certain matters relating to international policy, civil actions, and suspension or termination of licenses.

(d) The Secretary of Transportation has delegated to the Administrator of the Pipeline Hazardous Materials and Safety Administration (PHMSA) the authority to carry out the functions vested in the Secretary under section 21 of the Deepwater Port Act relating to the safe construction, operation, and maintenance of pipelines associated with deepwater ports.

(e) The Secretary of the Interior is responsible for determining the fair market rental value of the subsoil and seabed of the Outer Continental Shelf of the United States to be used by the deepwater port, including, but not limited to, the fair market rental value of the right-of-way necessary for the pipeline segment of the port located on such subsoil and seabed. Any proposed subsurface storage of oil and gas in the submerged lands of the Outer Continental Shelf is also subject to the review and approval of the Secretary of the Interior. In order to minimize potential impacts to existing facilities and protect the development potential of nearby oil, gas, and mineral resources, Bureau of Ocean Energy Management (BOEM) should also be involved in the site selection process.

(f) The Environmental Protection Agency (EPA), U.S. Army Corps of Engineers, and other Federal agencies are designated as cooperating agencies and support the Coast Guard and MARAD in the review and evaluation of deepwater port license applications.

3. Amend § 148.5 as follows:

- a. Add a definition in alphabetical order for “Accommodation module”;
- b. Revise the definition for “Construction”;
- c. Add definitions in alphabetical order for “Deepwater port”, "Deepwater port security plan", "Engineering geological survey",
- d. Remove the definition for "Engineering hydrographic survey";
- e. Add in alphabetical order a definition for "Flexible riser and umbilical";
- f. Revise the definition for “Lease block”;
- g. Add in alphabetical order definitions for "Major conversion" and "Marine Safety Unit (MSU) Commander";

- h. Revise the definitions for "Marine site" and "Maritime Administration”;
- i. Add in alphabetical order a definition for “Mile”;
- j. Revise the definitions for "Operator" and "Person in Charge”;
- k. Add in alphabetical order definitions for "PIC" and "Pipeline”;
- l. Revise the definition for "Pipeline end manifold”;
- m. Add in alphabetical order a definition for "Prevention, monitoring and mitigation program”;
- n. Revise the definition for “Safety zone”;
- o. Add in alphabetical order a definition for “Service space”;
- p. Revise the definitions for "Single point mooring oil transfer system”; "Single point mooring natural gas transfer system”;
- q. Add in alphabetical order definitions for "Service space", "Sleeping space", and "Submerged turret loading buoy”; and
- r. Revise the definition for "Vessel".

The additions and revisions read as follows;

#### **§ 148.5 How are terms used in this subchapter defined?**

As used in this subchapter:

*Accommodation module* means a module with one or more accommodation spaces that is individually contracted and may be used for one or more facilities.

\* \* \* \* \*

*Construction* means any activity incidental to building, repairing, or expanding a deepwater port or any of its components, and includes but is not limited to supervision,

inspection, actual building, fabrication, laying of pipe, pile driving, bulk heading, alteration, modification, commissioning, and additions to the deepwater port.

\* \* \* \* \*

*Deepwater port.* (1) Means any fixed or floating manmade structure other than a vessel, or any group of structures, located beyond State seaward boundaries that are used or are intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to or from any State, except as otherwise provided in the Deepwater Port Act of 1974, as amended, and for other uses not inconsistent with the purposes of the Deepwater Ports Act, including transportation of oil or natural gas from the United States' OCS;

(2) Includes all components and equipment, including pipelines, pumping stations, service platforms, buoys, mooring lines, and similar facilities, to the extent that they are located seaward of the high water mark;

(3) Includes, in the case of natural gas, all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities which are proposed and/or approved for construction and operation as part of the deepwater port, to the extent that they are located seaward of the high water mark and do not include interconnecting facilities; and

(4) Must be considered a “new source” for purposes of the Clean Air Act, as amended (codified at 42 U.S.C. 7401 *et seq.*), and the Federal Water Pollution Control Act, as amended (codified at 33 U.S.C. 1251 *et seq.*).

*Deepwater port security plan* or *DPSP* means the plan developed to ensure the implementation of security measures, at each Maritime Security Level defined in 33 CFR 101.105, to protect the deepwater port and its servicing vessels or those vessels interfacing with the deepwater port, and any cargoes and persons on board the port or vessels.

\* \* \* \* \*

*Engineering geological survey* means a detailed geological analysis of seabed soil samples performed to determine the physical composition -- for example the mineral content -- and structural integrity for the installation of offshore components and structures.

*Flexible riser* and *umbilical* refer to the parts of a single point mooring system and include the flexible product transfer and control system from the submerged turret loading (STL) buoy to a pipeline end manifold (PLEM).

\* \* \* \* \*

*Lease block* means an area established either by the Secretary of the Interior under 43 U.S.C. 1334, or by a State under 43 U.S.C. 1311.

\* \* \* \* \*

*Major conversion* means a conversion that the Commandant (CG-5P) determines will result in a substantial change to the deepwater port's type or essence, dimensions, carrying capacity (if a floating deepwater port), processing equipment, or expected useful lifespan.

\* \* \* \* \*

*Marine Safety Unit (MSU) Commander* means the same as the definition in 33 CFR 3.01-1(d)(2).

*Marine site* means the area in which the deepwater port is located, including, but not limited to, the safety zone and all areas seaward of the high water mark in which associated components and equipment of the deepwater port are located.

*Maritime Administration* or *MARAD* means the Administrator of the Maritime Administration or that person's designees, and includes the Associate Administrator for Intermodal System Development, Maritime Administration, or that individual's authorized representative, at 1200 New Jersey Avenue, SE., Washington, DC 20590, telephone (202) 366-0926.

\* \* \* \* \*

*Mile* means nautical mile.

\* \* \* \* \*

*Operator* means the licensee or the licensee's designee.

\* \* \* \* \*

*Person in charge*, when used without the abbreviation “*PIC*,” means a person in charge of an operation other than transfer operations.

*PIC* means an individual designated as a person in charge of transfer operations under 33 CFR 154.710 for oil facilities or 33 CFR 127.301 for liquefied natural gas (LNG) facilities.

\* \* \* \* \*

*Pipeline* means the pipeline portion of a deepwater port downstream of the last valve, and associated safety equipment, on the pipeline end manifold (PLEM). On deepwater ports



with multiple mooring stations, the term includes the flow line or gathering line between each PLEM.

*Pipeline end manifold* or *PLEM* means the deepwater port process skids containing the valves, controls, and instrumentation downstream of the mooring equipment. The PLEM is normally subsea and will normally include the last downstream valve prior to the deepwater port pipeline.

\* \* \* \* \*

*Prevention, monitoring, and mitigation program* or *PMMP* means a post-licensing, performance-based process to evaluate the effectiveness of preventing or mitigating environmental impacts from deepwater port construction and operations, and including the development of a pre-construction monitoring baseline with subsequent periodic evaluations to determine if and when improvements to the program must be incorporated.

\* \* \* \* \*

*Safety zone* means a safety zone established around a deepwater port under part 150, subpart J, of this chapter and extending up to 500 meters (approximately 1,640 feet) around the deepwater port, measured from each point on its outer edge or from its construction site, except as authorized by generally accepted international standards or as recommended by the International Maritime Organization but not interfering with the use of recognized sea lanes.

*Service space* means a space used for a galley, a pantry containing cooking appliances, a storeroom, or a workshop other than those in industrial areas, and trunks to those spaces.

\* \* \* \* \*

*Single point mooring oil transfer system* or *SPM–OTS* means the part of the oil transfer system from the pipeline end manifold to the end of the hose string that connects to the tanker's manifold. This is not part of a submerged turret loading-single point mooring (STL-SPM) system.

*Single point mooring natural gas transfer system* or *SPM–NGTS* means the part of the natural gas transfer system from the pipeline end manifold to the end of the hose string that connects to the tanker's manifold. This is not part of a submerged turret loading-single point mooring (STL-SPM) system.

*Sleeping space* means a space provided with bunks for sleeping.

\* \* \* \* \*

*Submerged turret loading buoy* or *STL buoy* means a loading buoy connected to the riser and umbilical that is pulled into a tanker's receiving cone for the transfer of oil or natural gas.

\* \* \* \* \*

*Vessel* means every description of watercraft or artificial contrivance used or capable of being used as a means of transportation on or through the water.

4. Amend § 148.8 as follows:
  - a. In paragraph (a), add a sentence at the end of the paragraph; and
  - b. In paragraph (b) introductory text, remove the words "may be made at any time after the Maritime Administration issues a record of decision approving the application, and".

The addition reads as follows:

**§ 148.8 How are certifying entities designated and used for purposes of this subchapter?**

(a) \* \* \* Applicants may, with Commandant (CG-5P) approval, nominate a CE before the Maritime Administration issues a Record of Decision.

\* \* \* \* \*

5. Amend § 148.105 by:

- a. Revising paragraphs (g)(1)(i), (g)(2)(iii), (i)(1), and (j) introductory text;
- b. Adding paragraphs (j)(1), (j)(1)(i), (j)(1)(ii), and (j)(2);
- c. Revising paragraphs (k)(1) introductory text, (m)(1)(i), (m)(1)(iii), and (m)(2);
- d. Adding paragraphs (m)(3) and (4);
- e. Revising paragraphs (n) introductory text, (s)(6)(iv), (t) introductory text, (y),

and (z); and

- f. Adding paragraph (ff).

The revisions and additions read as follows:

**§ 148.105 What must I include in my application?**

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(i) Annual financial statements, audited by an independent certified public accountant, for the previous 3 years, including, but not limited to, an income statement, balance sheet, and cash flow statement with footnote disclosures prepared according to U.S. Generally Accepted Accounting Principles; provided, however, that MARAD, in consultation with the Commandant (CG-5P), may waive this requirement upon finding:

\* \* \* \* \*

(2) \* \* \*

(iii) A preliminary estimate of the cost of removing all of the deepwater port marine components, including pipelines that lie beneath the seabed. The licensee of a deepwater port is responsible for the costs associated with removal of all deepwater port components. Should a license be granted, MARAD will require a bond, guarantee, or other financial instrument to cover the complete cost of decommissioning as a condition of the license.

\* \* \* \* \*

(i) \* \* \*

(1) Evidence, to the extent available, that the requirements of 33 U.S.C. 1341(a)(1) will be satisfied. If complete information is not available by the time MARAD must either approve or deny the application under 33 U.S.C. 1504(i)(1), the license for the deepwater port will be conditioned upon the applicant demonstrating that the requirements of 33 U.S.C. 1341(a)(1) will be satisfied.

\* \* \* \* \*

(j) *Coastal zone management.* (1) The application must be accompanied by a completed consistency certification that the proposed activity complies with, and will be conducted in a manner consistent with, each affected state's Coastal Management Program. This certification must include--

(i) The statement: "The proposed activity complies with the enforceable policies of [NAME OF AFFECTED STATE]'s approved management program and will be conducted in a manner consistent with such program."; and

(ii) A copy of the environmental evaluation required by § 148.105(z) of this part;  
and

(2) At the time of submitting the application, the applicant must also furnish to the appropriate agency of each State where the proposal may affect a coastal use or resource, a copy of the certification requesting concurrence with the consistency certification. Complete procedures for providing data for the consistency certification are specified at 15 CFR part 930, subpart D.

(k) *Identification of lease block.* (1) Identification of each lease block where any part of the proposed deepwater port or its approaches is located. This identification must be made on official Outer Continental Shelf leasing maps or protraction diagrams, where available. Each map and diagram must be certified by a professional surveyor, or, in the alternative, the applicant must provide an equivalent means of certifying accuracy. For each lease block, provide the following:

\* \* \* \* \*

(m) \* \* \*

(1) \* \* \*

(i) Fixed and floating structures and associated components seaward of the high water mark;

\* \* \* \* \*

(iii) Proposed anchorage and mooring areas, including areas associated with construction and pipelaying operations;

(2) A reconnaissance hydrographic survey of the proposed marine site. This survey should provide data on the water depth, cultural resources, and a general

characterization of the sea bottom. A requirement to submit a reconnaissance hydrographic survey of the final marine site will be imposed as a condition in the license. The applicant may submit existing data, gathered within the previous 5 years (or within a longer timeframe if approved by the Commandant (CG-5P)), but it must be supplemented by field data for the specific locations in which a high degree of variability exists;

(3) Meteorological/oceanographic (“MetOcean”) data. This should include prevailing winds, currents, waves and storms in the vicinity of the proposed marine site; and

(4) Vessel traffic data. At least one year of vessel traffic data from the most recent year’s data, if available, in the vicinity of the proposed marine site.

(n) *Engineering geological survey data.* An initial preliminary analysis of the general character and condition of the ocean bottom and sub-bottom, soils and sediments throughout the marine site, and, if applicable, soils and topography throughout the terrestrial site. If the applicant proposes to use horizontal directional drilling (HDD), the initial preliminary analysis must include a study addressing the feasibility of HDD in the proposed HDD location. The applicant may use existing data, so long as it was collected within the last 5 years (or within a longer timeframe if approved by the Commandant (CG-5P)) and continues to provide accurate information about conditions throughout the site. If not, a new survey must be completed to provide supplemental data. The analysis must include an opinion by a registered professional specializing in soil mechanics, such as a registered professional engineer or an equivalent means of certifying accuracy, concerning:

\* \* \* \* \*

(s) \* \* \*

(6) \* \* \*

(iv) Any associated equipment, including equipment for oil or natural gas regasification, throughput measuring, leak detection, emergency shutdown, and the alarm system.

\* \* \* \* \*

(t) *Information on offshore pipelines.* To facilitate timely processing of an application, applicants are encouraged to consult with PHMSA to verify the requirements for the design, construction, operation and maintenance of pipelines prior to submitting an application, which must include the following:

\* \* \* \* \*

(y) *Risk and consequence assessment.* The applicant must submit a site-specific risk and consequence assessment to assess the risks and consequences of accidental and intentional events that compromise cargo containment. The applicant may consult with the Commandant (CG-5P) to ensure that appropriate assessment procedures are used. If the Coast Guard determines that an independent risk and consequence assessment is necessary, the Coast Guard may require the applicant to provide additional data in order to support an independent, site-specific analysis. The Coast Guard may use an approved third party to analyze the applicant provided data for impact on the public, property, and the environment including, but not limited to, potential events that result in a liquefied natural gas or oil spill, vapor dispersion and/or fire. The Coast Guard-approved third party will use validated models, for example, computational fluid dynamics, or an equivalent model.

(z) *Environmental evaluation.* An analysis, sufficient to meet the requirements of the National Environmental Policy Act, and as outlined in subpart H of this part, of the potential impacts on the natural and human environments, including sufficient information that complies with all applicable Federal, tribal, and State requirements for the protection of the environment. The analysis must identify a reasonable range of alternatives to the proposed action including, but not limited to, deepwater port location, pipeline route and landfall, construction methods, deepwater port design, and technologies used during operation.

\* \* \* \* \*

(ff) *MARPOL 73/78 requirements for certification as Reception Facility for Oil, Noxious Liquid Substances, and Garbage.* The deepwater port license applicant must include an application for a Certificate of Adequacy (COA) as defined in 33 CFR 158.120 or a written waiver justifying why compliance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention, or MARPOL 73/78, is unreasonable or impracticable.

6. Revise § 148.107 to read as follows:

**§ 148.107 What happens if I supplement my application?**

(a) The Commandant (CG-5P), in coordination with MARAD, may require the applicant, or the applicant's affiliates, to file as a supplement to the application any analysis, explanation, or other information the Commandant (CG-5P) deems necessary to process the application.

(b) The Commandant (CG-5P), in coordination with MARAD, may require the applicant, or the applicant's affiliates, to make available for Coast Guard or MARAD



examination, under oath or for interview, persons having, or believed to have, necessary information.

(c) If information under paragraph (a) or (b) of this section is required, the Commandant (CG-5P), with input from the applicant, will determine if that required supplemental information can be provided in a timeframe necessary to meet the Act's timeline for processing the application. If the information under paragraph (a) or (b) cannot be provided in that timeframe, the Commandant (CG-5P), in consultation with MARAD, may suspend the timeline for processing the application until the Commandant (CG-5P) receives that information and deems it to be adequate.

(d) The deadline for the Administrator's review of an application under the Act is extended for a period of time equal to the total number of days of all suspensions made under paragraph (c) of this section.

(e) If information under paragraph (a) or (b) of this section is required, and the Commandant (CG-5P) determines that reasonable progress is not being made to supply that information, the Commandant (CG-5P) may recommend to MARAD to either suspend processing of the application indefinitely or to treat the application as withdrawn in accordance with § 148.283 of this part.

§ 148.125 [Amended]

7. Amend § 148.125(c) by adding the words "and additional environmental analysis" after the words "operations manual".

§ 148.207 [Amended]

8. Amend § 148.209 by revising paragraph (a) to read as follows:

**§ 148.209 How is the application processed?**

\* \* \* \* \*

(a) Each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports; and

\* \* \* \* \*

9. Revise § 148.211 to read as follows:

**§ 148.211 What must I do if I need to change my application?**

(a) If at any time before MARAD approves or denies an application, the information in it changes, becomes incomplete, or becomes inaccurate, the applicant must promptly submit the changes, additional information, or necessary corrections in the manner set forth in § 148.115 of this part.

(b) The Coast Guard may determine that the change or required information is of such magnitude that it warrants submission of an amended or, in some cases, a completely revised application. The Commandant (CG-5P), in consultation with MARAD, will determine if the change is of such a magnitude as to require reopening of the scoping process or otherwise warrant the opportunity for additional public comment on the proposed action.

10. Add § 148.214 to read as follows:

**§ 148.214 May I resubmit my application?**

With the approval of MARAD, in consultation with the Commandant (CG-5P), an applicant may resubmit a previously withdrawn application in accordance with subpart B of this part. The Commandant (CG-5P) may waive such subpart B requirements as the Commandant (CG-5P) deems appropriate. Where the application was previously denied, or withdrawn due to concerns raised by either MARAD or the governor of an Adjacent

Coastal State, the resubmission must be accompanied by a memorandum in which the applicant shows clearly how the application has been revised to address those reasons for denial or concerns.

**§ 148.215 [Amended]**

11. Amend § 148.215 as follows:

- a. Redesignate paragraph (d) as paragraph (c)(5); and
- b. In newly redesignated paragraph (c)(5), after the words "determination that the", add the words "proposed deepwater".

12. Amend § 148.217 by revising paragraphs (b)(1), (c), and (d) to read as follows:

**§ 148.217 How can a State be designated as an Adjacent Coastal State?**

\* \* \* \* \*

(b) \* \* \*

(1) Be submitted in writing to MARAD within 14 days after the date of publication of the notice of application in the *Federal Register*;

\* \* \* \* \*

(c) Upon receipt of a request, MARAD will send a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and ask for the Administrator's recommendations within an amount of time that will allow MARAD, in consultation with the Commandant (CG-5P), 45 days from receipt of the request to determine the matter.

(d) If after receiving NOAA's recommendations, MARAD determines that the State should be considered an Adjacent Coastal State, MARAD, in consultation with the

Commandant (CG-5P), will so designate it. If MARAD, in consultation with the Commandant (CG-5P), denies the request, he or she will notify the requesting State's Governor of the denial.

**§ 148.222 [Amended]**

13. Amend § 148.222(b) by removing the words “The Commandant (CG-5) or the MARAD Administrator” and adding, in their place, the words “MARAD, in coordination with the Commandant (CG-5P),”.

14. Revise § 148.228 to read as follows:

**§ 148.228 What if a formal evidentiary hearing is necessary?**

After all public meetings under § 148.222 of this part are concluded, MARAD, in consultation with the Commandant (CG-5P), will consider whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing. If it is determined that a formal evidentiary hearing is necessary, the hearing will be conducted in accordance with 5 U.S.C. 554, in accordance with procedures prescribed by MARAD.

**§§ 148.230, 148.232, 148.234, 148.236, 148.238, 148.240, 148.242, 148.244, 148.246, 148.248, 148.250, 148. 252, 148.254, and 148.256 [Removed and Reserved]**

15. Remove and reserve §§ 148.230 148.232, 148.234, 148.236, 148.238, 148.240, 148.242, 148.244, 148.246, 148.248, 148.250, 148. 252, 148.254, and 148.256.

16. Revise § 148.276 to read as follows:

**§ 148.276 What is the timeline for approving or denying an application?**

(a) In 33 U.S.C. 1504, the Act provides strict timelines for action on a license application, which, if closely observed, can lead to action in just under 1 year. The Coast

Guard, with the concurrence of MARAD, may suspend the timeline if an applicant fails to provide timely information or requests additional time to comply with a request, as described in § 148.107 of this part.

(b) The timeline for action on a license application includes publishing a notice of application. A notice of application is published after it has been determined that the application contains sufficient material for processing the application. The Coast Guard and MARAD must conduct a public hearing in each Adjacent Coastal State within 240 days of publishing the notice.

(c) After the final environmental impact statement is published, MARAD will hold a final public hearing in each Adjacent Coastal State. MARAD issues a Record of Decision (ROD) approving or denying a license application within 90 days after the final public hearing. Actual issuance of a license may not take place until certain conditions imposed by the ROD have been met. Those conditions may include how the applicant must address design, construction, installation, testing, operations, and decommissioning of the deepwater port, or meet the requirements of other agencies.

17. Amend § 148.277 by adding paragraph (d) to read as follows:

**§ 148.277 How may Federal agencies and States participate in the application process?**

\* \* \* \* \*

(d) Approvals or disapprovals of the application from the governors of Adjacent Coastal States will be accepted by MARAD only within the 45-day period after the close of the final public hearing on the application, and not before the final public hearing. If

the governor fails to transmit his or her approval or disapproval to MARAD not later than 45 days after the last public hearing, such approval will be conclusively presumed.

**§ 148.281 [Amended]**

18. Amend § 148.281(b)(1) by removing the letter "G" after the word "subpart" and adding, in its place, the letter "H".

19. Revise § 148.283 to read as follows:

**§ 148.283 When may the application process be stopped and an application be treated as withdrawn?**

(a) The Commandant (CG-5P) may recommend to MARAD that an application be treated as withdrawn before the application is approved or denied if--

(1) The application is withdrawn before MARAD approves it; or

(2) The application is incomplete, and the applicant does not respond to a request by the Commandant (CG-5P) for further information, as per § 148.107 of this part.

(b) The Commandant (CG-5P) and MARAD will provide joint written notice to the applicant of an action taken under this section.

**§ 148.405 [Amended]**

20. Amend § 148.405(c)(2) as follows:

a. After the word "limits", remove the symbol ","; and

b. After the word "explosives", add the words ", per the applicable guidance for geological and geophysical surveys prescribed by the Bureau of Ocean Energy Management (BOEM)".

**Subpart G [Redesignated as Subpart H]**

21. Redesignate subpart G, consisting of §§ 148.700 through 148.737, as subpart H.

22. Add new subpart G entitled "Subpart G — Oil Pollution Act of 1990 Limits of Liability for Deepwater Ports" and move §§ 148.600 and 148.605 from subpart F to new subpart G and revise them to read as follows:

Subpart G — Oil Pollution Act of 1990 Limits of Liability for Deepwater Ports

**§ 148.600 Where can I find the Oil Pollution Act of 1990 (OPA 90) limits of financial liability for deepwater ports?**

The OPA 90 limits of liability for deepwater ports are set forth in 33 CFR 138.230(b). The limits of liability in that section are adjusted periodically for significant increases in the Consumer Price Index, in accordance with 33 U.S.C. 2704(d)(4) and the procedures in 33 CFR 138.240. The limits of liability may also be adjusted under 33 U.S.C. 2704(d)(2) and the procedures in § 148.605 of this subpart.

**§ 148.605 What are the procedures under OPA 90 for adjusting a deepwater port's limit of liability under 33 U.S.C. 2704(d)(2)?**

(a) Upon an applicant's or licensee's request, the Coast Guard may lower the generally applicable OPA 90 limit of liability for deepwater ports in 33 CFR 138.230(b)(1). The Coast Guard may do so under 33 U.S.C. 2704(d)(2) on a port-by-port-basis, after evaluating a spill risk analysis and an economic analysis. Adjustments to a deepwater port's limit of liability are established by a rulemaking that allows for public notice and comment, and if approved, will be codified at 33 CFR 138.230(b)(2).

(b) The limit of liability of a deepwater port will not be reduced to less than \$50 million, and may be increased following a reduction, as the Coast Guard deems

appropriate, if the design, construction, or operation of the deepwater port changes, or if oil spill incidents related to the deepwater port, or to deepwater ports generally, indicate that a higher limit is needed.

(c) Requests to adjust the limit of liability for a deepwater port under this subpart must be submitted to the Commandant (CG-5P). Requests to adjust the limits of liability may be submitted with a license application or upon receipt of a license from MARAD to construct and operate the proposed deepwater port. If the request for adjustment is submitted with the license application, no action will be taken on the request until MARAD issues a license to construct and operate the proposed deepwater port.

(d) Requests to adjust the limit of liability under this subpart must include a risk analysis of the deepwater port to determine its maximum probable oil discharge and an economic analysis to determine the OPA 90 responsible party removal costs and OPA 90 removal costs and damages for which the responsible party is liable under 33 U.S.C. 2702 that could result from such a spill.

(1) The risk analysis must, as applicable, consider the following factors:

(i) Deepwater port oil handling, storage, transfer, and transportation capacity and practices.

(ii) Type of oil handled.

(iii) Physical layout and condition of the deepwater port.

(iv) On-site oil spill response capability.

(v) Oil spill history of the deepwater port.

(vi) The pipeline oil leak detection system.

(vii) Section-by-section pipeline analysis of credible oil spill scenarios.



(viii) Other oil spills for which the deepwater port might be solely or jointly liable (such as tanker spills).

(2) The economic analysis must, as applicable, consider the following factors for the maximum credible spill:

(i) Spill trajectories.

(ii) Potential responsible party removal costs.

(iii) Potential removal costs and damages for which the responsible party is liable under 33 U.S.C. 2702.

#### **Subpart H--Environmental Review Criteria for Deepwater Ports**

23. Amend § 148.707 as follows:

a. Revise the section heading and paragraph (b) introductory text;

b. In paragraph (b)(1)(i), before the word "endangered", add the words "threatened and", and after the word "species", add the words "and critical habitats";

c. In paragraph (b)(1)(iii), remove the word "sanctuaries" and add, in its place, the words "protected areas";

d. In paragraph (b)(1)(vii), remove the word "and";

e. In paragraph (b)(1)(viii), remove the symbol ".", and add, in its place, the symbol ";"; and

f. Add paragraphs (b)(1)(ix) and (x).

The revisions and additions read as follows:

**§ 148.707 What type of criteria will be used in an environmental evaluation and how will they be applied?**

\* \* \* \* \*

(b) The environmental evaluation will be applied to the phases of construction, operation, and decommissioning of the proposed action and alternatives. Alternatives must consider alternate siting of the deepwater port as well as different technologies and pipeline routes. The evaluation will assess:

(1) \* \* \*

(ix) Marine, coastal, and migratory birds; and

(x) Marine mammals and fisheries.

\* \* \* \* \*

#### **§ 148.715 [Amended]**

24. Amend § 148.715 as follows:

a. In the introductory text, remove the word "reasonable" and add, in its place, the words "a reasonable range of";

b. In paragraph (a), after the word "assessment" and before the comma, add the words "including, but not limited to, geographic relevance, age of data used (generally no more than 5 years at the time of submission) and methods of data analysis"; and

c. In paragraph (a), remove the text "; and" and add, in its place a period.

#### **§ 148.720 [Amended]**

25. Amend § 148.720(k) by adding the words ", but not limited to," after the word "including".

#### **§ 148.725 [Amended]**

26. Amend § 148.725 introductory text by removing the word "reasonable" and adding, in its place, the words "a reasonable range of".

#### **§ 148.730 [Amended]**

27. Amend § 148.730 as follows:

a. In the introductory text, remove the word "reasonable" and add, in its place, the words "a reasonable range of"; and

b. In paragraph (a), remove the words "from appropriate State agencies for any designated Adjacent Coastal State" and add, in its place, the words "described in § 148.105(j) of this part".

**§ 148.735 [Amended]**

28. Amend § 148.735 introductory text by removing the word "reasonable" and adding, in its place, the words "a reasonable range of".

29. Revise § 148.737 to read as follows:

**§ 148.737 What environmental statutes must an applicant follow?**

In constructing and operating a deepwater port, the deepwater port must comply with all applicable Federal, State, and tribal environmental statutes and Executive Orders (E.O.s). For the purposes of information only, a non-exhaustive list of Federal environmental statutes and E.O.s is available online via a Coast Guard Web site: <http://www.uscg.mil/hq/cg5/cg522/cg5225/>.

**PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT**

30. The authority citation for part 149 continues to read as follows:

**Authority:** 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

**§§ 149.306 - 149.315 [Removed and Reserved]**

31. Remove and reserve §§ 149.306 through 149.315.

**§§ 149.100 - 149.700 [Redesignated]**

32. Redesignate §§ 149.100 through 149.700 as shown in the following table:

<b>Old Section, Old Subpart</b>	<b>New Section, New Subpart</b>
149.100, B	149.100, C
149.103, B	149.105, C
149.105, B	149.110, C
149.110, B	149.115, C
149.115, B	149.120, C
149.120, B	149.125, C
149.125, B	149.130, C
149.130, B	149.135, C
149.135, B	149.140, C
149.140, B	149.64, B
149.145, B	149.150, C
149.300, C	149.200, D
149.301, C	149.201, D
149.302, C	149.202, D
149.303, C	149.203, D
149.304, C	149.204, D
149.305, C	149.205, D
149.316, C	149.207, D
149.317, C	149.208, D
149.318, C	149.209, D
149.319, C	149.210, D
149.320, C	149.211, D
149.321, C	149.212, D
149.322, C	149.213, D
149.323, C	149.214, D
149.324, C	149.215, D
149.325, C	149.216, D
149.326, C	149.217, D
149.327, C	149.218, D
149.328, C	149.219, D
149.329, C	149.220, D
149.330, C	149.221, D
149.331, C	149.222, D
149.332, C	149.223, D
149.333, C	149.224, D
149.334, C	149.225, D
149.335, C	149.226, D
149.336, C	149.227, D
149.337, C	149.228, D
149.338, C	149.229, D
149.339, C	149.230, D

149.340, C	149.231, D
149.400, D	149.300, E
149.401, D	149.301, E
149.402, D	149.302, E
149.403, D	149.303, E
149.404, D	149.304, E
149.405, D	149.305, E
149.406, D	149.306, E
149.407, D	149.307, E
149.408, D	149.308, E
149.409, D	149.309, E
149.410, D	149.310, E
149.411, D	149.311, E
149.412, D	149.312, E
149.413, D	149.313, E
149.414, D	149.314, E
149.415, D	149.315, E
149.416, D	149.316, E
149.417, D	149.317, E
149.418, D	149.318, E
149.419, D	149.319, E
149.420, D	149.320, E
149.421, D	149.321, E
149.500, E	149.400, F
149.505, E	149.405, F
149.510, E	149.410, F
149.520, E	149.420, F
149.535, E	149.435, F
149.540, E	149.440, F
149.550, E	149.450, F
149.560, E	149.460, F
149.565, E	149.465, F
149.570, E	149.470, F
149.575, E	149.475, F
149.580, E	149.480, F
149.585, E	149.485, F
149.600, F	149.50, B
149.610, F	149.20, A
149.615, F	149.51, B
149.620, F	149.53, B
149.625, F	149.52, B
149.640, F	149.60, B
149.641, F	149.61, B
149.655, F	149.62, B
149.660, F	149.63, B
149.665, F	149.65, B

149.670, F	149.66, B
149.675, F	149.67, B
149.680, F	149.68, B
149.685, F	149.69, B
149.690, F	149.70, B
149.691, F	149.71, B
149.692, F	149.72, B
149.693, F	149.73, B
149.694, F	149.74, B
149.695, F	149.75, B
149.696, F	149.76, B
149.697, F	149.77, B
149.700, F	149.78, B

33. Revise § 149.5 to read as follows:

**§ 149.5 What definitions apply to this part?**

Definitions applicable to this part appear in 33 CFR 148.5.

**§ 149.15 [Removed and Reserved]**

34. Remove and reserve § 149.15.

**§ 149.20 [Amended]**

35. In newly redesignated § 149.20, paragraph (a), after the text "(SPM)", add the words ", or submerged turret loading (STL) buoy".

36. Revise the heading of subpart B to read as follows:

**Subpart B — Design, Construction, Operations, and Equipment**

**§ 149.50 [Amended]**

37. Amend newly redesignated § 149.50 by adding the words "the design, construction, operations, and" after the words "requirements for", and by removing the words "and design" after the word "equipment".

**§ 149.51 [Amended]**

38. Amend newly redesignated § 149.51(b) by adding the words "in the U.S., or an engineer possessing equivalent qualifications in a foreign country as approved by the Commandant (CG-5P)," after the words "professional engineer".

39. Amend newly redesignated § 149.52 as follows:

a. In paragraph (b), after the text "(CG-5P)" add the words "or the accepted certifying entity"; and

b. Add paragraph (d).

The addition reads as follows:

**§ 149.52 What are the design standards?**

\* \* \* \* \*

(d) The appropriateness of the design of a deepwater port, or its components, may be shown by its compliance with standards generally used within the offshore industry that are at least equivalent to rules established by any recognized classification society as defined in 46 CFR 8.100. Based on the design, complexity, and location of a deepwater port, the Commandant (CG-5P) will determine, in coordination with the applicant or licensee, as appropriate, the components to be included in classification society certification or classification certificate. This coordination should start early in the process, especially in the case of manned fixed or floating structures.

40. Add § 149.54 to read as follows:

**§ 149.54 What is the process for submitting alterations and modifications affecting the design, construction, and operations of a deepwater port?**

(a) Alterations and modifications affecting the design and construction of a deepwater port must be submitted to the Commandant (CG-5P) for review and approval if--

- (1) A license has not yet been issued; or
- (2) A license has been issued but the deepwater port has not commenced operations; or
- (3) The alterations and modifications are deemed a major conversion; or
- (4) The alterations or modifications substantially change the manner in which the deepwater port operates or are not in accordance with a condition of the license.

(b) All other alterations and modifications to the deepwater port must be submitted to the Sector Commander, or MSU Commander with COTP and OCMI authority for review and approval.

(c) Approval for alterations and modifications proposed after a license has been issued will be contingent upon whether the proposed changes will affect the way the deepwater port operates, or any conditions imposed in the license.

(d) The licensee is not authorized to proceed with alterations prior to approval from the Commandant (CG-5P) for the conditions outlined in paragraph (a) and for approval by the cognizant Sector Commander, or MSU Commander with COTP and OCMI authority as required in paragraph (b) of this section.

(e) During the review and approval process of a proposed alteration or modification, the Commandant (CG-5P) may consult with the Marine Safety Center and cooperating Federal agencies possessing relevant technical expertise.

41. Add § 149.57 to read as follows:



**§ 149.57 What is the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?**

(a) The Coast Guard is responsible for ensuring that all aspects of a deepwater port are in compliance with appropriate standards and requirements. The Coast Guard review of a proposed deepwater port ends at, and includes, the last downstream valve of the pipeline end manifold (PLEM) for each single point mooring-oil transfer system (SPM-OTS) or single point mooring-natural gas transfer system (SPM-NGTS) (last downstream valve prior to connecting to a pipeline). The main gas transmission lines to shore or to offshore pipeline infrastructure, and the flowlines or gathering lines connecting multiple SPM-OTSs or SPM-NGTSs, fall under the jurisdiction of PHMSA.

(b) The Commandant (CG-5P) will coordinate the review and approval for operations for the Coast Guard and other Federal and State agencies as necessary.

(c) Depending on project complexity, construction, and installation timing, the Commandant (CG-5P) will determine, with input from the licensee, when the review process should be initiated and when the certifying entity (CE), if used, should be nominated, approved and engaged. The CE may also be the classification society being used as described in 33 CFR 149.52(d).

(d) Final approval to commence commissioning and operations of the deepwater port will come from the Commandant (CG-5P). This approval may contain additional conditions that must be satisfied once the deepwater port is operational. Once Commandant (CG-5P) has granted the deepwater port clearance to operate, the Sector Commander, or MSU Commander with COTP and OCMI authority will exercise day to day oversight.

42. Add § 149.58 to read as follows:

**§ 149.58 What is the role of the certifying entity in the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?**

(a) A certifying entity (CE), contracted by the licensee but under the direction of and acting for the Coast Guard, may assist in the review and verification of each phase (i.e., the design, construction, and operations) of a deepwater port. If a CE is used, the CE's review must include a recommendation to the Commandant (CG-5P) on the sufficiency of a deepwater port's design basis and selected drawings, plans, or analysis and procedure. Review for each phase may require on-site inspections at fabrication locations and during construction and installation. The Commandant (CG-5P) is the final approval authority for the deepwater port's design, construction, and commissioning.

(1) *Design phase, including the design basis.* The design basis must identify all baseline design standards, regulations, rules and/or codes, and key parameters to be used to design each structure, system, or component of the deepwater port.

(2) *Construction phase,* including fabrication, installation, and commissioning.

(3) *Operational phase,* including maintenance and inspection procedures and long-term support from commencement of operations to decommissioning of the deepwater port.

(b) The licensee must provide to the Commandant (CG-5P), and to a CE, if used, the design basis and lists of drawings, plans, calculations, analyses, procedures, and correspondence as determined in the review.

(c) If a CE is used, key responsibilities for the CE include, but are not limited to--

- (1) Recommendation of approval, disapproval, or approval with proposed changes of the applicant's design basis;
  - (2) Development of an action plan for each phase;
  - (3) Providing selected drawings and plan reviews;
  - (4) Inspections and oversight;
  - (5) Interim reports and recommendations; and
  - (6) A final report and recommendation for Coast Guard approval or disapproval.
- (d) The CE may also be used to assist in the review of such areas as--
- (1) A maintenance and inspection program;
  - (2) System safety, including interoperability, reliability, safety integrity levels, and LNG carrier compatibility;
  - (3) Specific, higher-risk components and operations; and
  - (4) Pipeline design, installation and operations manual (The applicant must coordinate the review and approval of the pipeline appendix to the operations manual with PHMSA).
- (e) At the option of the licensee, the CE may continue to support the review and approval process for a deepwater port through to its decommissioning.

**§ 149.63 [Amended]**

43. Amend newly redesignated § 149.63(a) introductory text by removing the words "pumping platform complex" and adding, in their place, the words "manned deepwater port".

**§ 149.64 [Amended]**

44. Amend newly redesignated § 149.64(b) by removing the symbol "," after the word "side" and adding, in its place, the words "facilities, vessels approaching the safety zone,".

**§ 149.65 [Amended]**

45. In newly redesignated § 149.65, wherever they appear, remove the words "pumping platform complex" and add, in their place, the words "manned deepwater port".

**§ 149.66 [Amended]**

46. In newly redesignated § 149.66, paragraph (b), remove the text "§ 149.665" and add, in its place, the text "§ 149.65".

**§ 149.67 [Amended]**

47. Amend newly redesignated § 149.67(a) as follows:

- a. Remove the words "For a" and add, in their place, the word "Each";
- b. Remove the words ", each pumping platform complex"; and
- c. After the words "on the", remove the word "complex" and add, in its place, the words "deepwater port".

**§ 149.68 [Amended]**

48. Amend newly redesignated § 149.68 by adding the word "manned" before the word "deepwater" in the introductory text.

**§ 149.70 [Amended]**

49. Amend newly redesignated § 149.70 by removing the word "outlined" and adding, in its place, the word "specified", and by removing the text "§§ 149.691 through 149.699" and adding, in its place, the text "§§ 149.71 through 149.77".

**§ 149.77 [Amended]**

50. Amend newly redesignated § 149.77(a) by removing the word "owner's" and adding, in its place, the word "operator's".

51. Revise the heading for subpart C to read as follows:

**Subpart C - Pollution Prevention Equipment**

**§ 149.115 [Amended]**

52. In newly redesignated § 149.115, remove the words "from the pumping platform complex" and add, in their place, the word "remotely".

**§ 149.130 [Amended]**

53. Amend newly redesignated § 149.130(a) by removing the words "a pumping platform complex" and adding, in their place, the words "the marine transfer area of a deepwater port".

**§ 149.135 [Amended]**

54. Amend newly redesignated § 149.135 as follows:

a. In paragraph (b) introductory text, after the word "alarm", add the words "described in paragraph (a) of this section";

b. In paragraph (b)(1), remove the words "pumping platform complex" and add, in their place, the words "marine transfer area of a deepwater port"; and

c. In paragraph (b)(2), remove the words "pumping platform complex" and add, in their place, the words "marine transfer area of a deepwater port", and before the word "under", add the word "described".

**§ 149.150 [Amended]**

55. Amend newly redesignated § 149.150 by removing the words "pumping platform complex" and adding, in their place, the words "manned deepwater port".

56. Revise the heading for subpart D to read as follows:

**Subpart D — Lifesaving Equipment**

**§ 149.203 [Amended]**

57. Amend newly redesignated § 149.203 as follows:

a. In paragraph (a)(1), remove the text "§ 149.306" and add, in its place, the text "§ 149.206";

b. In paragraph (a)(2), remove the text "§ 149.308" and add, in its place, the text "§ 149.208"; and

c. In paragraph (b), remove the text "§ 149.314" and add, in its place, the text "§ 149.206".

**§ 149.204 [Amended]**

58. Amend newly redesignated § 149.204 as follows:

a. In paragraph (a), in the introductory text, remove the text "§ 149.305" and add, in its place, the text "§ 149.205";

b. In paragraph (a)(4), remove the text "§ 149.305" and add, in its place, the text "§ 149.205"; and

c. In paragraph (a)(5), remove the text "§ 149.314" and add, in its place, the text "§ 149.206".

**§ 149.205 [Amended]**

59. Amend newly redesignated § 149.205 as follows:

a. In paragraph (a), remove the text "§ 149.304" and add, in its place, the text "§ 149.204"; and

b. In paragraph (b), remove the text "§ 149.308" and add, in its place, the text "§ 149.208".

60. Add § 149.206 to read as follows:

**§ 149.206 What are the requirements for survival craft and rescue boats?**

Survival craft and rescue boats must satisfy the requirements of 46 CFR 108.520-108.575, except as described in paragraphs (a) through (g) of this section.

(a) Except for boathooks, the survival equipment required by 46 CFR 108.575(b) must be securely stowed in the lifeboat.

(b) Each lifeboat must have a list of the survival equipment it is required to carry. The list must be posted in the lifeboat.

(c) Except as provided in § 149.205(b) of this part, each inflatable or rigid liferaft, boarded from a deck that is more than 4.5 meters (14.75 feet) above the water, must be davit-launched or served by a marine evacuation system approved under approval series 160.175.

(d) The launching equipment must be arranged so that a loaded liferaft does not have to be lifted before it is lowered.

(e) Not more than two liferafts may be launched from the same set of launching equipment.

(f) The operator must arrange survival craft so that they are--

(1) Readily accessible in an emergency;

(2) Accessible for inspection, maintenance, and testing;

(3) In locations clear of overboard discharge piping or openings, and of obstructions below; and

(4) Located so that survival craft with an aggregate capacity to accommodate all persons authorized to be berthed are readily accessible from the personnel berthing area.

(g) The operator may use an onboard crane to launch a rescue boat if the crane's launching system meets the requirements of this section.

**§ 149.209 [Amended]**

61. Amend newly redesignated § 149.209 by removing the text "§ 149.316" and adding, in its place, the text "§ 149.207".

**§ 149.210 [Amended]**

62. Amend newly redesignated § 149.210 by removing the text "§ 149.317" and adding, in its place, the text "§ 149.208".

**§ 149.216 [Amended]**

63. In newly redesignated § 149.216, remove the text "§ 149.140" and add, in its place, the text "§ 149.64".

**§ 149.221 [Amended]**

64. In newly redesignated § 149.221(a), remove the text "§ 149.326" and add, in its place, the text "§ 149.217".

**§ 149.227 [Amended]**

65. Amend newly redesignated § 149.227(a) by removing the text "§ 149.316" and adding, in its place, the text "§ 149.217".

**§ 149.228 [Amended]**

66. Amend newly redesignated § 149.228(a) by removing the text "§ 149.320" and adding, in its place, the text "§ 149.211".

67. Revise the heading for subpart E to read as follows:



## **Subpart E — Firefighting and Fire Protection Equipment**

68. Revise newly redesignated § 149.302 to read as follows:

### **§ 149.302 What firefighting and fire protection equipment must be approved by the Coast Guard?**

Unless approval from the Sector Commander, or MSU Commander with COTP and OCMI authority, is requested and granted pursuant to § 149.303 of this part and as permitted under § 149.303, § 149.315(c) or (d), § 149.319(a)(1), or § 149.320 of this part, all required firefighting and fire protection equipment on a deepwater port must be approved by the Commandant (CG-ENG). Firefighting and fire protection equipment that exceeds required equipment must also be approved by the Commandant (CG-ENG).

69. Revise the section heading for newly redesignated § 149.303 to read as follows:

### **§ 149.303 How may the operator request the use of alternate or supplemental firefighting and fire prevention equipment or procedures?**

\* \* \* \* \*

70. Amend newly redesignated § 149.304 as follows:

- a. Revise the section heading; and
- b. Remove the text "§ 149.403" and add, in its place, the text "§ 149.303".

The revision reads as follows:

### **§ 149.304 Can the operator use firefighting equipment that has no Coast Guard standards?**

\* \* \* \* \*

### **§ 149.305 [Amended]**

71. Amend newly redesignated § 149.305 by removing the text "149.405" wherever it appears, and adding, in each place, the text "149.305".

**§ 149.307 [Amended]**

72. Amend newly redesignated § 149.307 as follows:

a. In paragraph (a), remove the text "§ 149.409" and add, in its place, the text "§ 149.309"; and

b. In paragraph (b), remove the text "§ 149.409" and add, in its place, the text "§ 149.309".

**§ 149.309 [Amended]**

73. Amend newly redesignated § 149.309 by removing the text "149.409" wherever it appears, and adding, in each place, the text "149.309".

**§ 149.310 [Amended]**

74. In newly redesignated § 149.310, remove the text "149.409" and add, in its place, the text "149.309".

**§ 149.315 [Amended]**

75. Amend newly redesignated § 149.315(a) by removing the words "pumping platform complex" and adding, in their place, the words "manned deepwater port".

**§ 149.317 [Amended]**

76. In newly redesignated § 149.317(b), remove the text "149.409" and add, in its place, the text "149.309".

**§ 149.318 [Amended]**

77. In newly redesignated § 149.318, remove the text "149.409" and add, in its place, the text "149.309".

**§ 149.319 [Amended]**

78. Amend newly redesignated § 149.319 as follows:

a. In paragraph (a) introductory text, remove the text "§ 149.420" and add, in its place, the text "§ 149.320" and remove the text "§ 149.421" and add, in its place, the text "§ 149.321"; and

b. In paragraph (a)(2), remove the text "§ 149.415" and add, in its place, the text "§ 149.315".

79. Revise the heading for subpart F to read as follows:

**Subpart F—Aids to Navigation**

**§ 149.405 [Amended]**

80. In newly redesignated § 149.405(a), remove the text "§ 149.510" and add, in its place, the text "§ 149.410".

**§ 149.410 [Amended]**

81. In newly redesignated § 149.410(a), remove the text "Commandant (CG-5P)" and add, in its place, the words "Coast Guard District Commander in the area where the deepwater port will be built".

**§ 149.470 [Amended]**

82. In newly redesignated § 149.470(c), remove the text "§ 149.540" and add, in its place, the text "§ 149.440".

**§ 149.480 [Amended]**

83. In newly redesignated § 149.480(a), remove the words "of a pumping platform complex".

**§ 149.485 [Amended]**

84. In redesignated § 149.485(a), remove the words "pumping platform complex" and add, in their place, the words "deepwater port".

**§ 149.650 [Removed]**

85. Remove § 149.650.

**PART 150—DEEPWATER PORTS: OPERATIONS**

86. The authority citation for part 150 continues to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), (m)(2); 33 U.S.C. 1509(a); E.O. 12777, sec. 2; E.O. 13286, sec. 34, 68 FR 10619; Department of Homeland Security Delegation No. 0170.1(70), (73), (75), (80).

87. Amend § 150.10 by revising paragraphs (b), (c), (d), and (e) to read as follows:

**§ 150.10 What are the general requirements for operations manuals?**

\* \* \* \* \*

(b) The operations manual is reviewed and approved by the Commandant (CG-5P), in coordination with the local Sector Commander, or MSU Commander, with COTP and OCMI authority, as meeting the requirements of the Act and this subchapter.

(c) The manual must be readily available on the deepwater port for use by personnel.

(d) The licensee must ensure that all personnel are trained and follow the procedures in the manual while at the deepwater port.

(e) Every 5 years from the date of approval of the operations manual (unless a longer timeframe is approved by the Commandant (CG-5P)), a deepwater port operator must re-submit the operations manual to the Commandant (CG-5P) to be re-reviewed and re-approved.

88. Amend § 150.15 as follows:

- a. In paragraph (c), after the word "including", add the words ", but not limited to,";
- b. In paragraphs (d) introductory text, (m) introductory text, and in newly redesignated paragraph (q) introductory text, after the word "including", add the words ", but not limited to";
- c. In paragraphs (i) introductory text, (i)(4), after the word "including", add the words ", but not limited to,";
- d. In paragraph (i)(4)(vii), remove the words "a safety zone, area to be avoided, and anchorage area" and add, in their place, the words "zones and areas described under subpart J of this part";
- e. In paragraphs (i)(7), (l) introductory text, and (l)(1)(iii), after the word "including", add the words ", but not limited to,";
- f. In paragraph (l)(2)(iii), remove the word "to" and add, in its place, the words ", but not limited to,";
- g. In paragraph (l)(4), after the word "including", add the words ", but not limited to,";
- h. In paragraphs (m) introductory text, and in newly redesignated paragraph (q) introductory text, after the word "including", add the words ", but not limited to";
- i. Redesignate paragraphs (o) through (aa) as (p) through (bb), respectively;
- j. Add new paragraph (o);
- k. In newly redesignated paragraphs (s), (u)(3), and (x)(2)(iii), after the word "including", add the words ", but not limited to,";

- l. Revise newly redesignated paragraphs (y) and (bb); and
- m. Add paragraph (cc);

The additions and revisions read as follows:

**§ 150.15 What must the operations manual include?**

\* \* \* \* \*

(o) A certificate of adequacy (COA) that certifies a deepwater port meets the requirements for reception facilities as required under 33 CFR part 158, or a waiver of a COA.

\* \* \* \* \*

(y) *Security procedures*—(1) *Security plan*. Deepwater port operators must develop a deepwater port security plan comparable, at a minimum, to those required by 33 CFR part 106. The plan must address at least:

(i) Access controls for goods and materials and access controls for personnel that require positive and verifiable identification;

(ii) Monitoring and alerting of vessels that approach or enter the deepwater port's security zone;

(iii) Risk identification and procedures for detecting and deterring terrorist or subversive activity, such as security lighting and remotely-alarmed restricted areas;

(iv) Internal and external notification and response requirements in the event of a perceived threat or an attack on the deepwater port;

(v) Designation of the deepwater port security officer (DPSO);

(vi) Required security training and drills for all personnel; and

(vii) The scalability of actions and procedures for the various levels of threat.

(2) *Audits.* (i) The DPSO must ensure an audit of the deepwater port security plan is performed annually, beginning no later than one year from the initial date of approval and attach a letter to the deepwater port security plan certifying that the deepwater port security plan meets the applicable requirements of this part. The results of this audit must be included as an attachment to the annual self-inspection report to the cognizant Sector Commander, or MSU Commander with COTP and OCMI authority as outlined in § 150.105 of this part.

(ii) If there is a change in ownership or operations of the deepwater port, or if there have been modifications to the deepwater port, the deepwater port security plan must be audited including but not limited to physical structure, emergency response procedures, security measures, or operations.

(iii) Auditing the deepwater port security plan, as a result of modifications to the deepwater port, may be limited to those sections of the deepwater port security plan affected by the deepwater port modifications.

(iv) Unless impracticable due to the size and nature of the company or the deepwater port, personnel conducting internal audits of the security measures specified in the deepwater port security plan or evaluating its implementation must--

(A) Have knowledge of methods of conducting audits and inspections, and control and monitoring techniques;

(B) Not have regularly assigned security duties; and

(C) Be independent of any security measures being audited.

(v) If the results of an audit require an amendment of the deepwater port security plan, the DPSO must submit the proposed amendment to the cognizant Sector

Commander, or MSU Commander with COTP and OCMI authority, with copy to the Commandant (CG-5P), for review and approval no later than 30 days after completion of the audit.

(3) *Review.* The Sector Commander, or MSU Commander with COTP and OCMI authority, will normally perform an annual security inspection to verify the findings in the audit. The Sector Commander, or MSU Commander with COTP and OCMI authority, will perform a more detailed deepwater port security plan review at prescribed 5-year intervals following initial approval of the deepwater port security plan and will include onsite inspection of personnel assignments and qualifications, observance of security drills, and other security exercises as necessary.

\* \* \* \* \*

(bb) *Environmental procedures.* A prevention, monitoring, and mitigation program (PMMP) that provides procedures to prevent, minimize, or mitigate adverse environmental effects resulting from the construction, operation, and decommissioning of the deepwater port. This must include both routine scheduled maintenance activities as well as unscheduled maintenance activities.

(1) *Environmental monitoring program.* The PMMP must include a detailed environmental monitoring program plan. It must be performance-based, and include provisions for incorporating recommendations for adaptive management based upon analysis of data obtained from monitoring studies. The PMMP must also include provisions for periodic re-examination of the physical, chemical, and biological factors investigated during the baseline surveys contained in the licensee's deepwater port license application.



(i) Monitoring must commence shortly before project construction in the vicinity of the construction sites and other potentially impacted areas and continue throughout the construction phase.

(ii) During project operations, a continuous monitoring program designed to ensure coverage of seasonal variations must be undertaken.

(2) *Review.* Every 5 years (unless a longer timeframe is approved by the Commandant (CG-5P)), to coincide with the periodic review of the deepwater port's operations manual, the licensee must conduct a thorough re-examination of the physical, chemical, and biological factors contained in the deepwater port's environmental evaluation.

(i) The re-examination must include, but not be limited to, a detailed analysis of the results of the environmental monitoring program to identify trends and impacts that result from the deepwater port's operations.

(ii) The re-examination must be submitted for review and approval to the Commandant (CG-5P) and MARAD not later than 60 days before the 5 year period ends.

(cc) *Procedural manual for operations, maintenance, and emergencies of the deepwater port pipelines.* This manual must meet the requirements of PHMSA regulations 49 CFR 192.605 and other applicable parts of 49 CFR 190 through 199.

89. Amend § 150.25 as follows:

- a. Revise the section heading;
- b. Redesignate paragraphs (d), (e), and (f) as paragraphs (c)(2), (d), and (e), respectively;
- c. Revise newly redesignated paragraph (c)(2);

- d. Add paragraph (c)(1);
- e. Revise newly redesignated paragraph (e);
- f. Add new paragraph (f); and

The revisions and addition read as follows:

**§ 150.25 When will the Coast Guard require amendments to the operations manual?**

\* \* \* \* \*

(c) \* \* \*

(1) If the Sector Commander, or MSU Commander with COTP and OCMI authority determines that the proposed amendments are inadequate, the Sector Commander, or MSU Commander with COTP and OCMI authority, will return them to the licensee for revision.

(2) If the Sector Commander, or MSU Commander with COTP and OCMI authority, decides that a proposed amendment is adequate, the amendment will go into effect 60 days after the Sector Commander, or MSU Commander with COTP and OCMI authority, notifies the licensee, with copy to the Commandant (CG-5P). The Commandant (CG-5P) will notify MARAD, and PHMSA as appropriate, prior to a significant amendment going into effect.

\* \* \* \* \*

(e) If the Sector Commander, or MSU Commander with COTP and OCMI authority, finds that a particular situation requires immediate action to prevent a spill or discharge, or to protect the safety of life and property, he or she may issue an amendment effective on the date that the licensee receives it. The Sector Commander, or MSU

Commander with COTP and OCMI authority, must include a brief statement of the reasons for the immediate amendment. The licensee may petition the District Commander for review, but the petition does not delay the effective date of the amendment.

(f) Other Federal agencies may propose amendments to the operations manual by submitting them to the Coast Guard's Office of Operating and Environmental Standards (CG-OES), which will coordinate with the Sector Commander, or MSU Commander with COTP and OCMI authority, to have the licensee implement requested amendments.

90. Revise § 150.30 to read as follows:

**§ 150.30 How may the licensee propose an amendment to the operations manual?**

(a) Proposed amendments to an approved operations manual must be submitted to the Sector Commander, or MSU Commander with COTP and OCMI authority, in whose area of responsibility the deepwater port is located, with copy to the Commandant (CG-5P). The Commandant (CG-5P) will notify MARAD prior to approval of proposed significant amendments to the operations manual to ensure approval accords with the conditions of the deepwater port's license. If the proposed changes are not consistent with the requirements of any license condition, the environmental impact analysis, or any other Federal or State license or approval, the Commandant (CG-5P) must notify the Sector Commander, or MSU Commander with COTP and OCMI authority of this inconsistency immediately. Sector Commander, or MSU Commander with COTP and OCMI authority approval of the proposed changes will be withheld until the identified inconsistencies are resolved.

(b) The licensee may propose an amendment to the operations manual--

(1) By submitting to the Sector Commander, or to the MSU Commander with COTP and OCMI authority, in writing, the amendments and reasons for the amendments, not less than 30 days before the requested effective date of the amendment; or

(2) If the amendment is needed immediately, by submitting the amendment, and reasons why the amendment is needed immediately, to the Sector Commander, or to the MSU Commander with COTP and OCMI authority in writing.

(c) The Sector Commander, or MSU Commander with COTP and OCMI authority, in coordination with the Commandant (CG-5P), must respond to a proposed amendment by notifying the licensee of his or her decision, in writing, before the requested date of the amendment. If the request is disapproved, the Sector Commander, or MSU Commander with COTP and OCMI authority must include the reasons for disapproval in the notice. If the request is for an immediate amendment, the Sector Commander, or the MSU Commander with COTP and OCMI authority must respond as soon as possible.

91. Revise § 150.35 to read as follows:

**§ 150.35 How may an Adjacent Coastal State request an amendment to the deepwater port operations manual?**

(a) An Adjacent Coastal State connected by pipeline to the deepwater port may petition the cognizant Sector Commander, or MSU Commander with COTP and OCMI authority, with copy to the Commandant (CG-5P), to amend deepwater port operations. The petition must include sufficient information to allow the Sector Commander, or MSU Commander with COTP and OCMI authority to reach a decision concerning the proposed amendment.

(b) After the Sector Commander, or MSU Commander with COTP and OCMI authority receives a petition, the Sector Commander, or MSU Commander with COTP and OCMI authority, in coordination with the Commandant (CG-5P), requests comments from the licensee.

(c) After reviewing the petition and comments and considering the costs and benefits involved, the Sector Commander, or MSU Commander with COTP and OCMI authority, in coordination with the Commandant (CG-5P), may approve the petition if the proposed amendment will provide equivalent or improved protection and safety. The Adjacent Coastal State may petition the Commandant (CG-5P) to review the decision. Petitions must be made in writing and presented to the Sector Commander, or MSU Commander with COTP and OCMI authority for forwarding to the Commandant (CG-5P) via the District Commander.

92. Revise § 150.40 to read as follows:

**§ 150.40 Deviating from the operations manual.**

(a) If, because of a particular situation, the licensee needs to deviate from the operations manual, the licensee must submit a written request to the Sector Commander, or MSU Commander with COTP and OCMI authority explaining why the deviation is necessary and what alternative is proposed. If the Sector Commander, or MSU Commander with COTP and OCMI authority determines that the deviation would ensure equivalent or greater protection and safety, the Sector Commander, or MSU Commander with COTP and OCMI authority will authorize the deviation and notify the licensee in writing.

(b) In an emergency, any person may deviate from any requirement in this subchapter, or any procedure in the operations manual, to ensure the safety of life, property, or the environment. Each deviation must be reported to the Sector Commander, or to the MSU Commander with COTP and OCMI authority at the earliest possible time.

**§ 150.45 [Removed and Reserved]**

93. Remove and reserve § 150.45.

94. Amend § 150.50 by revising the section heading to read as follows:

**§ 150.50 What are the requirements for a deepwater port spill response plan?**

\* \* \* \* \*

95. Revise § 150.100 to read as follows:

**§ 150.100 What are the requirements for inspecting deepwater ports?**

(a) Under direction of the Sector Commander, or MSU Commander, with COTP and OCMI authority, marine inspectors may inspect deepwater ports to determine whether the requirements of this subchapter are met. A marine inspector may conduct an inspection, with or without advance notice, at any time the Sector Commander or MSU Commander deems necessary.

(b) During an inspection, Coast Guard marine inspectors may be accompanied by representatives of other Federal agencies.

96. Revise § 150.105 to read as follows:

**§ 150.105 What are the requirements for annual self-inspection?**

(a) The operator of each deepwater port must ensure that the deepwater port is regularly inspected to determine whether the facility is in compliance with the requirements of the approved operations manual, the license, and any classification

society certifications. To this end, a deepwater port operator may propose to the Sector Commander, or to the MSU Commander, with COTP and OCMI authority, to implement a self-inspection program. Prior to the initiation of a self-inspection program, and before commencement of operations, the owner or operator must submit a proposal describing the self-inspection plan to the Sector Commander, or to the MSU Commander, with COTP and OCMI authority for acceptance. The plan must address all applicable requirements outlined in parts 149 and 150 of this subchapter. Any proposed program must include inspection intervals not to exceed 12 months between inspections. The inspection may be conducted up to 2 months after its due date, but will be valid for only the 12 months following that due date.

(b) The operator must record and submit the results of the annual self-inspection to the Sector Commander, or to the MSU Commander with COTP and OCMI authority, within 30 days of completing the inspection. The report must include a description of any failure, and the scope of repairs made to components or equipment, in accordance with the requirements in subpart I of this part, other than primary lifesaving, firefighting, or transfer equipment, which are inspected and repaired in accordance with subpart F.

(c) The Sector Commander, or the MSU Commander with COTP and OCMI authority, must validate the results of each inspection. If the Sector Commander, or the MSU Commander with COTP and OCMI authority, determines that the deepwater port is not operating in conformity with its operations manual or license, the Sector Commander, or the MSU Commander with COTP and OCMI authority, must direct appropriate corrective action to the deepwater port operator, and the Sector Commander, or the MSU Commander with COTP and OCMI authority, must notify the Commandant (CG-5P).

After receipt of the notification, if the Commandant (CG-5P) concurs that a possible violation of a license condition is indicated, Commandant (CG-5P) will notify MARAD for consideration of what, if any, action on the license should be taken.

97. Add § 150.107 to read as follows:

**§ 150.107 What notice must be given in the event of inspections?**

The operator must notify the Sector Commander, or the MSU Commander with COTP and OCMI authority, of scheduled Federal and State agency inspections. The operator must retain the record of results of any Federal or State agency inspection and make those records available for review upon receiving a request by the Sector Commander, or by the MSU Commander with COTP and OCMI authority, or his or her designated representative. The Coast Guard may participate in any inspection undertaken by another Federal or State agency with jurisdiction.

**§ 150.110 [Amended]**

98. Amend § 150.110 by removing the word "or" after the words "class certificate,"; and adding the words ", or of changes in class status" after the words "classification certificate".

**§ 150.225 [Amended]**

99. In § 150.225, after the word "hold.", add the sentence "All employees, regardless of status, must receive basic safety training as soon as practicable after reporting to the deepwater port."

**§ 150.325 [Amended]**

100. Amend § 150.325(b) introductory text by adding the words ", but not limited to" after the word "including".



101. Amend § 150.380 by revising Table 150.380(a) and paragraph (b) to read as follows:

**§ 150.380 Under what circumstances may vessels operate within the safety zone or area to be avoided?**

(a) \* \* \*

**Table 150.380(a)—Regulated Activities of Vessels at Deepwater Ports**

<b>Regulated activities</b>	<b>Safety zone</b>	<b>Areas to be avoided around each deepwater port component<sup>1</sup></b>	<b>Anchorage areas</b>	<b>Other ship's routing measures adjacent to the safety zone</b>
Tankers calling at port	C	C	C	C
Support vessel movements	C	C	C	C
Transit by vessels other than tankers or support vessels	F	D	P	P
Mooring to surface components by vessels other than tankers or support vessels	N	N	N	N
Anchoring by vessels other than tankers or support vessels	N	F	C	F
Fishing, including, but not limited to, bottom trawl (shrimping)	N	D	P	R
Mobile drilling operations or erection of structures. <sup>2</sup>	N	R	N	N
Lightering/transshipment	N	N	N	N

<sup>1</sup>Areas to be avoided are in subpart J of this part.

<sup>2</sup>Not part of Port Installation.

*Key to regulated activities for Table 150.380(a):*

C—Movement of the vessel is permitted when cleared by the person in charge of vessel operations.

D—Movement is not restricted, but recommended transit speed not to exceed 10 knots. Communication with the person in charge of vessel operations.

F—Only in an emergency. Anchoring will be avoided in a no anchoring area except in the case of immediate danger to the ship or persons on board. N—Not permitted. P—Transit is permitted when the vessel is not in the immediate area of a tanker, and when cleared by the vessel traffic supervisor. R—Permitted only if determined that operation does not create unacceptable risk to personnel safety and security and operation. For transiting foreign-flag vessels, the requirement for clearance to enter the area to be avoided and no anchoring area is advisory in nature, but mandatory for an anchorage area established within 12 nautical miles.

(b) If the activity is not listed in table 150.380(a) of this section, or otherwise provided for in this subpart, the permission of the Sector Commander, or MSU Commander with COTP and OCMI authority, is required before operating in the safety zone or other ship's routing measure.

\* \* \* \* \*

#### **§ 150.435 [Amended]**

102. Amend § 150.435(b) by adding the words ", unless complying with any approved procedures contained in the operations manual to ensure the safety of personnel, equipment and the environment" after the word "vicinity".

#### **§ 150.501 [Amended]**

103. Amend § 150.501 by adding the words ", but not limited to," after the word "including".

#### **§ 150.601 [Amended]**

104. Amend § 150.601(b) introductory text by adding the words "but not limited to," after the word "including," and by adding the symbol ", " after the word "subcontractors".

**§ 150.602 [Amended]**

105. Amend § 150.602(a) by removing the text "§ 150.15(w)", and adding, in its place, the text "§ 150.15(x)".

**§ 150.607 [Amended]**

106. Amend § 150.607(a) by adding the words ", but not limited to," after the word "including" and by adding the symbol "," after the word "gear".

**§ 150.615 [Amended]**

107. Amend § 150.615(c) by adding the words ", but not limited to," after the word "including".

**§ 150.618 [Amended]**

108. In § 150.618(a), after the word "including", add the words ", but not limited to,".

**§ 150.619 [Amended]**

109. In § 150.619(b), after the word "including", add the words ", but not limited to,".

**§ 150.623 [Amended]**

110. Amend § 150.623(c) introductory text by adding the words ", but not limited to" after the word "including".

**§ 150.715 [Amended]**

111. In § 150.715(a), after the word "must", add the words "comply with the requirements of 33 CFR 66.01-11 and".

**§ 150.720 [Amended]**

112. Amend § 150.720 by adding the words "and comply with the requirements of 33 CFR 67.10" after the text "5 miles".

**§ 150.812 [Amended]**

113. Amend § 150.812 by removing the word "and" and adding, in its place, the symbol "," after the word "life"; and adding the words ", and the environment" after the word "property".

**§ 150.815 [Amended]**

114. Amend § 150.815(a)(4) by adding the words ", but not limited to," after the word "including".

115. Revise § 150.830 to read as follows:

**§ 150.830 Reporting a pollution incident.**

(a) Oil pollution incidents involving a deepwater port are reported according to part 153, subpart B, of this chapter.

(b) In each notification made under paragraph (a) of this section, the person in charge of the deepwater port involved in the incident must provide his or her name and telephone number, or radio call sign, and, to the extent known, the--

- (1) Location, date, and time of the incident;
- (2) Quantity of oil involved;
- (3) Cause of the incident;
- (4) Name or other identification of the vessel or offshore facility involved;
- (5) Size and color of any slick or sheen and the direction of its movement;
- (6) Observed on-scene weather conditions, including wind speed and direction, height and direction of seas, and any tidal or current influence present;

(7) Actions taken or contemplated to secure the source or contain and remove or otherwise control the discharged oil;

(8) Extent of any injuries or other damages incurred as a result of the incident;

(9) Observed damage to living natural resources; and

(10) Any other information deemed relevant by the reporting party or requested by the person receiving the notification.

(c) The person giving notification of an incident must not delay notification to gather all required information and must provide any information not immediately available when it becomes known.

**§ 150.905 [Amended]**

116. Amend § 150.905(d) by adding the words ", but not limited to," after the word "including".

**§ 150.915 [Amended]**

117. Amend § 150.915 as follows:

- a. In paragraph (a), after the word "life", remove the word "and" and add, in its place, the symbol ",", and after the word "property", add the words ", or the environment";
- b. In paragraph (b)(2), after the word "including", add the words ", but not limited to,"; and
- c. In paragraph (b)(9), after the word "including", add the words ", but not limited to,".

Dated: March 17, 2015.

Paul F. Zukunft,

Admiral, U.S. Coast Guard,

Commandant.

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